OLDER AMERICANS ACT

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BEFORE THE

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UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

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OLDER AMERICANS ACT

MONDAY, APRIL 27, 1981

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C.

The committee met, pursuant to notice, at 9:40 a.m., in room 5110, Dirksen Senate Office Building, Hon. John Heinz, chairman, presiding.

Present: Senators Heinz, Grassley, and Chiles.

Also present: John C. Rother, staff director and chief counsel; E. Bentley Lipscomb, minority staff director; Michael Rodgers and Joseph P. Lydon, professional staff members; Nell P. Ryan, minority professional staff member; Robin L. Kropf, chief clerk; and Helen Gross-Wallace and Nancy Mickey, clerical assistants.

OPENING STATEMENT BY SENATOR JOHN HEINZ, CHAIRMAN

Senator HEINZ. Today, the Special Committee on Aging will hold an oversight hearing on the Older Americans Act. We hope to examine the administration's proposals concerning the reauthorization of the act and review the current status of the Older Americans Act programs.

It has been over 15 years since the enactment of the Older Americans Act in 1965. During that time, the program has grown from a few small social service grants and research projects to a network of over 1,500 individual community service projects which service older Americans. These programs are administered by 57 State and Territorial units on aging, through a complex of over 700 locally based area agencies on aging. The size of the budget has increased from $7.5 million in 1966 to almost $961 million in the present fiscal year.

The act has been amended eight times, adding major new initiatives such as the nutrition program for the elderly and incorporating the senior community service employment program. The most recent amendments in 1978 were intended to provide a more efficient service delivery system and increase coordination of community resources for the elderly. They consolidated the social services, nutrition, and multipurpose senior centers into one title, to be funded through the area agencies on aging.

Today in Government, we are challenged as never before to be both critical and creative in our approach to public expenditures, directing them carefully to the best alternatives. The challenge we face is to set realistic priorities, to plan carefully, and to define specific goals. This is true for the programs of the Older Americans Act as it is for many other programs.

In the months to come, we will have several other opportunities to examine the impact of this legislation in meeting its goals and to receive recommendations for new policy directions. In the near future, we hope to have the final results of several studies, including a GAO report on how well State and area agencies on aging have carried out their 1973 legislative mandates in developing a comprehensive and coordinated system of services for the elderly.

Additionally, the 1981 White House Conference on Aging will be recommending a comprehensive agenda for the 1980's.

In anticipation of receiving these recommendations, I do not believe that this is an appropriate time for a major overhaul of the act. Our experience since the 1978 amendments have shown, however, that certain minor adjustments would contribute to streamlining this legislation. We should take the present opportunity to fine-tune those sections that will improve the overall efficiency of services as well as increase the participations of older persons in the operation of the programs intended to serve them.

I recently provided a statement to the Labor and Human Resources Committee, testimony to Senator Denton's Subcommittee on Aging, Family and Human Services, which represents my thinking on such changes. Specifically, those recommendations in my testimony included an extension of the authorization for a period of 2 years; greater flexibility in the act by removing the priority service requirements under title III; merging the three separate appropriations for social and nutritional services under title III into one consolidated appropriation; assuring that the legal mandates of the act concerning the position and responsibility of the Administration on Aging within the Department of Health and Human Services are in fact carried out by the Department; improving the employment opportunities for older persons in both the public and private sector; and providing increased incentives for those who are willing and able to remain in the labor force; expanding employment services to the elderly with efforts aimed at promoting the hiring of older persons, and actions directed at eliminating age-related job discrimination, and providing additional opportunities to employ far more older persons as professionals in the planning and delivery of services under Older Americans Act programs.

While these suggestions may not necessarily reflect the thinking of all the members of the committee, they are, in my opinion, issues that must be considered by the committee, as well as other suggestions.

We have several distinguished witnesses with us today, and we look forward to hearing their observations and recommendations on these and other concerns.

I would like our first witness, David Rust, to please come forward, and let me add that it was not so long ago that Mr. Rust used to sit up here, on this side of the table. I do not know which he likes better. Maybe I should ask him after he has an opportunity to testify.

David, please proceed.

STATEMENT OF DAVID A. RUST, WASHINGTON, D.C., EXECUTIVE DIRECTOR, WHITE HOUSE CONFERENCE ON AGING, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY M. GENE HANDELSMAN, ACTING COMMISSIONER, ADMINISTRATION ON AGING, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. RUST. Mr. Chairman, before the hearing started, I went up and sat down in the chair behind you; I like that view better.

Mr. Chairman and members of the Senate Special Committee on Aging, I am pleased to appear before you today to discuss the effects of the 1978 amendments to the Older Americans Act and to outline the administration's proposals for strengthening the existing law.

I am today accompanied by M. Gene Handelsman, the Acting Commissioner on Aging.

This is the second occasion on which the administration has officially presented its recommendations to Congress. I welcome this opportunity to work with you on this vital task, and I would add, Mr. Chairman, as you just did, that after serving as a member of the staff of this committee for 4 years, it is a special honor and privilege for me to testify before you this morning.

Since the inception of the Older Americans Act in 1965, the programs supported under title III have been the chief operational vehicle for striving to realize the law's ambitious objectives. Authority for the establishment of State agencies on aging was included in the original law. That act called for the designation by the Governor in each State of a single agency to be primarily responsible for coordinating all programs and activities related to the purposes of the Older Americans Act. Authority for the establishment of area agencies on aging was included in the 1973 amendments.

Title III has evolved from a relatively simple and straightforward program of over 1,500 individual community service projects into a complex and highly differentiated national network of 722 State and local level area agencies on aging engaged in planning, coordination, advocacy, and the development of a community service delivery system. In addition, this aging "network" furnishes guidance and assistance to several thousand nutrition and social service providers. Furthermore, the act also authorizes a variety of training, research, and demonstration activities under title IV.

The most recent amendments to the act were adopted in 1978. These amendments added some new responsibilities and consolidated authorities for social services, multipurpose senior centers, and nutrition into a single title. Specifically, these amendments sought to achieve the following:

Social, nutritional, and senior center services were consolidated into an expanded title III. Three separate authorizations were established within the new title III—one for social services and senior centers; a second for congregate nutrition services; and a third for home-delivered nutrition services.

The 1978 amendments required that at least 50 percent of the title III social services funds be spent for three legislatively determined priority services—access, legal, and in-home services.

The 1978 amendments required that each State establish a nursing home ombudsman program designed to work in behalf of older

residents in long-term care facilities. Minimum expenditure levels were mandated for the ombudsman effort.

Fourth, the AoA, State, and area agencies were each given responsibility to serve as advocates for the elderly in their respective jurisdictions.

Fifth, a program of direct grants to Indian tribes was established as a new title VI.

The 1978 amendments resulted in simplifying certain administrative requirements. At the same time, however, the current law limits State and local discretion in planning and implementing AoA programs through the numerous prescriptions, detailed specifications, and program standards and requirements which the act now contains. Given tight fiscal constraints, such provisions have the unfortunate effect of establishing expectations that cannot be realistically achieved.

In addition, the prescribed program standards may not always constitute the most efficient way to solve specific issues at the State and local level. The detailed requirements which the act currently specifies for the long-term care ombudsman program is one example of standards which may unduly restrict program flexibility.

These numerous specifications have also created an operational mode at the Federal and State levels characterized by a preoccupation with regulatory compliance. The States and communities have made commendable efforts to implement the many new requirements imposed by the 1978 amendments. Nevertheless, the current structure diverts attention and resources away from the far more important task of meeting the needs of older Americans.

Similar problems are in evidence in the title IV discretionary programs. The prescriptive nature of its provisions greatly reduces the flexibility of the Department to respond to the needs or problems that emerge in the title III program. Mandated expenditure levels for legal services demonstrations are but one example.

The administration is committed to providing adequate services for older Americans and will shortly—hopefully, today or tomorrow—transmit to Congress a full legislative proposal in the form of a draft bill extending the Older Americans Act programs administered by the Department of Health and Human Services for 3 additional years. This bill will restore significant discretion to the States in the administration of the title III program and will improve the act in other ways as well.

Senator HEINZ. Let me interrupt you there, just to ask an informational question. My understanding is that HHS has completed its work on the bill, but it is now down at OMB for signoff; is that right?

Mr. RUST. It went down to OMB 1 week ago today. It came back from OMB on Friday, with a request for one minor change, which I will mention in a minute, and it is just a case of clearing that change with OMB and the Department of Agriculture. So we had hoped that it would be transmitted over the weekend, but we were informed this morning that that was not the case.

Senator HEINZ. Thank you. Please proceed.

Mr. RUST. When enacted, the administration's proposals will make the following changes:

First, we would recommend merging the three separate social and nutritional services authorized under title III into one authorization. A "hold-harmless" provision will require each State to spend from its fiscal year 1982 budget the same percentage of funds for nutrition services that it received in fiscal year 1981 from title III, including its USDA resources. This will insure stability for the existing program while the transition to a single title III allotment is implemented. It would also eliminate, as part of the overall consolidation of title III, the current provisions for special reimbursement from the U.S. Department of Agriculture for meals served under title III. These funds, approximately $95.5 million in fiscal year 1982, will be included in the allocation to the States as part of the consolidated title III. We propose that full consolidation of the USDA and HHS authorities for title III funding be achieved in fiscal year 1983. During fiscal year 1982, each State will receive as part of its title III allotment an amount that equals the amount they would have received from USDA. That is based on their 1981 levels.

This guaranteed amount should equal approximately $85 million in fiscal year 1982. The remaining $10 million will go through the funding formula, as planned.

In addition, the administration bill would permit the States to buy commodities from the Department of Agriculture. Such bulk purchases could significantly expand their nutrition programs. This, Mr. Chairman, is the provision that was added on Friday at about 4 o'clock, the "buy-in" provision. So that is one of the reasons—I think the only reason—why the bill was not transmitted over the weekend.

The way it would work is that the State of Pennsylvania could notify the Commissioner on Aging that it wanted to set aside *x* amount of money for purchase of commodities. The Commissioner would then withhold that money from their State allotment, purchase the commodities, and have them delivered to Pennsylvania for distribution there. And we are in the process of drafting and clearing that language.

Second, the bill would provide greater flexibility for State and area agencies by making a number of specific changes. First, it would repeal the 50-percent spending requirement for access, in-home, and legal services under title III, part B. State and communities can, of course, continue to provide these services at their discretion. Second, we would grant greater flexibility for State-operated ombudsman programs serving older residents of long-term care facilities. Third, we would change State and area planning requirements so that each State could decide whether the State agency and the area agencies will submit 2-, 3-, or 4-year plans. This would allow each State to adapt its planning efforts to its particular circumstances—that is, biennial legislatures, and so forth. Further, modifying requirements that the Administration on Aging, State, and area agencies on aging review and comment on the policies and programs of other agencies serving older Americans, to reflect more accurately the realities of authority, position, staff limitations, and budget.

We would allow those States who are currently operating as single planning and service areas—that is, one planning and serv-

ice area covers the entire State, and the State agency functions as though it were the area agency—the option of designating a planning or more than one planning and service area and area agencies for various portions of the State. The State agency would continue to serve as the area agency for the "balance of the State" under this proposal.

For instance, to use an example, Mr. Chairman, if Delaware chose to have a planning and service area around Wilmington, they could do so having one area agency for Wilmington and the State would continue to function in the balance of the State.

Beginning in fiscal year 1983, our bill would eliminate the provision in section 302(b)(2) that allows States to apply to the Commissioner on Aging for permission to use up to three-quarters of 1 percent of their service funds under title III for State plan administration.

The third area of major change in the bill would be in the way title IV funds are handled. We would give the Department greater flexibility in the use of title IV research and training funds by removing the specific budget subcategories for discretionary funds in order to provide the Secretary with the flexibility to target funds to areas of special need. We would eliminate provisions for interest subsidies and mortgage insurance for senior centers. These two provisions have never been funded or implemented in the 8 years they have been in the act. We would eliminate restrictions on the Secretary's discretionary use of title IV funds with other departmental funds in support of projects benefiting the elderly. The current prohibition against using title IV funds for purposes "not specifically authorized" by the Older Americans Act will be retained. And we would eliminate the earmark for legal services demonstrations, which requires the Commissioner to spend $5 million each year on demonstrations in that area.

Mr. Chairman, this concludes my prepared remarks. I will be happy to respond to the best of my ability to any questions that you have.

Senator HEINZ. Mr. Rust, thank you very much.

One of the issues that has crept up from time to time, as you are well aware, is the position of the Administration on Aging within HHS. We will be hearing from the General Accounting Office, Mr. McCormick, in a few minutes, and as you know, the committee has expressed concern that under the Carter administration, the Administration on Aging was required, even though the law specifically prohibited it, to report through the Office of Human Development Services.

The Office of Human Development Services confines itself to a rather narrow area of social services, while the legislative role of AoA programs and the AoA itself require that it work closely not only with OHDS social service programs, but with other HHS programs, such as the Public Health Service, Health Care Financing Administration, the Social Security Administration, not to mention other departments of Government, such as the VA, HUD, and as you yourself just got through discussing, the Department of Agriculture.

How does the place of AoA in the Office of Human Development Services facilitate or hinder the Commissioner's role as an advocate

and coordinator of Federal programs affecting the elderly? I really want to hear you answer this one.

Mr. RUST. I have a 10 o'clock appointment, Senator. [Laughter.] You have sort of got me between a rock and a hard place on that one, between my two hats, as a committee staffer here and my new hat. As you know, when I was up here, I worked with you and Senators Chiles and Domenici in requesting that GAO do a study of OHDS when the reorganization occurred last May. So I guess I am kind of on record up here as having a position on this particular issue which may differ from the one I now hold.

I think it is a good question, it is an incisive question, Mr. Chairman. [Laughter.] I believe it was Secretary Laird, after 18 years in the House, who said, the first time he was being questioned by his former colleagues about the war in Vietnam, in 1969, leaned back and said, "It is a lot easier to ask good questions than it is to give good answers."

Senator HEINZ. And it was Everett McKinley Dirksen who said, hopefully with some application to some peo downtown, "I see the light when I feel the heat." [Laughter.]

Mr. RUST. He also said he was a man of principle, and flexibility was his first principle. [Laughter.] So I will try to demonstrate my flexibility today.

I think that the Secretary, coming from the Hill environment and having been on the committee on Labor and Human Resources for the last 12 years, I guess, that he was in the Senate, the committee that focuses on this legislation and in which there have been a number of battles on the placement of the Administration on Aging, is extremely sensitive to this matter. And in my discussions with him in drafting the administration bill, we have looked at this whole question of the advocacy role of the Commissioner, the placement, the administrative placement, the relationship with OHDS, and how policy is made within the Department of Health and Human Services to affect the elderly.

We are mindful of the fact that somewhere in the neighborhood of 60 percent of the budget of the Department of Health and Human Services goes to the elderly, to income maintenance, health, or social services for older Americans. Yet, there seems to be a lack of policy planning and coordination. I think Congress has tried to tackle this problem over the years by placing that role on the Commissioner of Aging. The problem has tended to be, or seems to be, both from viewing it within the Department and without, that the Commissioner is not administratively in the best position to carry out that role.

We are exploring options within the Office of the Secretary right now for ways to bring about the kind of policy coordination that Congress wants to occur, so that when Social Security makes a policy, or HCFA makes a policy, or someone else makes a policy that sort of ripples across other areas of service delivery to the elderly, that those things are all brought together and that the policy is a coordinated and coherent one.

With regard to the specific findings of the GAO report, that, of course, came to us just last week as it came to you, and we at the present time are reviewing it within the Department. It is in the General Counsel's Office right now, reviewing the legal findings,

which is that the organizational plan put into effect by Secretary Harris violated section 201 of the Older Americans Act.

Senator HEINZ. Now, as I understand it, in your statement, you have proposed that the special reimbursement from the U.S. Department of Agriculture for meals served under title III be eliminated and that $95 million be included in the allocation to the States under title III to compensate for the loss of the cash in lieu of commodities provision; is that correct?

Mr. RUST. Yes, sir.

Senator HEINZ. At the present time, all title III service funds require 15 percent match. However, the special reimbursement which the States receive from USDA under current law is exempt from the match requirement. Have you informed the States or the Governors of the transfer the $95 million will require, roughly a $14 or $15 million match, and have they made any comment to you?

Mr. RUST. I do not think we have formally notified them. Most of them are aware of it from the fact that we testified, we gave testimony similar to today's outline of the bill, to Senator Denton's subcommittee about a month ago, and a few of the States have informally commented to us, but that is, I think, the only communication to this point.

Senator HEINZ. What did they say?

Mr. RUST. I think it is safe to say they expressed concern. For the most part, they expressed concern by the fact that their legislatures in many States have already adjourned for the year, and that may make making the necessary State appropriations of funds to make that match starting in October difficult.

I would point out that what we are talking about, while we say 15 percent, the burden that falls directly on the State is 5 percent, a third of that. I think in the largest State of the Union—and that is California, receiving the largest allotment under this program—that that would come to something less than $500,000. My guess is that in most States, the Governor would have some discretion to reprogram some funds to cover that.

Senator HEINZ. The administration has proposed block granting a good many social services, including title XX, into an expanded services block grant, expanded in terms of function, not exactly expanded in terms of money.

What do you anticipate will be the result of the block granting and the cutback of funds for social services on demands under the Older Americans Act?

Mr. RUST. I am not sure we can accurately predict what will happen. We think that the aging network has matured over the last few years, the State agencies and the area agencies, into a rather effective local advocacy body. We also believe that many of the national aging organizations have organized at the State and local level just as effectively as they have done at the national level. And I frankly would think that as we turn over discretion in setting these priorities to State and local governments, that the aging programs will fare well, that the network was there to do the planning, the coordination, and the advocacy, and also that the organizations are there. We have a growing aging population; more and more people are aware of that. And I would suspect that they

would do well in competing for those funds under the block grant programs.

Senator HEINZ. What proportion of the social service funds proposed to be blocked under the services block grant do you estimate now benefit primarily the elderly?

Mr. RUST. The one block grant program which currently exists is title XX, and we estimate that about $300 million a year goes into support for the aging programs.

Senator HEINZ. And title XX is now running at what expenditure rate?

Mr. RUST. $2.9 billion.

Senator HEINZ. So you estimate that only 10 percent or thereabouts of title XX money goes to help the elderly programs?

Mr. RUST. Yes, sir.

Senator HEINZ. Which is equivalent to about a third again as much as the elderly receive under the Older Americans Act?

Mr. RUST. Yes, sir.

Senator HEINZ. So that is a fairly substantial amount of money.

Mr. RUST. And it coincides approximately with their percentage of the population, where they are 10 or 11 percent of the population.

Senator HEINZ. Do you think that there is any risk as a result of the reduced funding that the State legislatures and Governors may say to themselves:

> While we are under pressure to make do with a bit less money under this block grant proposal, the elderly have a separate funding mechanism called the Older Americans Act. Congress must have meant something by that. Therefore, we will just confine our support to the elderly to the Older Americans Act, and we will kind of ignore the elderly under the social services block grant, and if Congress thinks we are doing the wrong thing, I assume that they will tell us.

Do you think there is any risk of that?

Mr. RUST. I think I would say, "Yes." I would say there is always some risk with something like that. But I think there are two other dynamics working in the Office's directives.

Senator HEINZ. Well, "some" is greater than 0.5 or less than 0.5—probability taken as 1.0?

Mr. RUST. Is this a drunkometer test?

Senator HEINZ. It could be. [Laughter.]

The test is not necessarily hazardous to your health, but I do not know what it does for your professional advancement.

Mr. RUST. But Gene told me I cannot drive back to the office. [Laughter.]

Let me venture into that on two areas. One is, remember that while we are cutting the amount of money in the block grants, many of the States have told us that if we free them from many of the categorical constraints that they now operate under, that they can get the same amount of services for a slightly reduced amount of money. So I think we may not see a dramatic change. We may see a change in the mix and the makeup of those services, but the volume of services, we hope, will not change significantly because we are going to block grants.

Second, the block grants do not carry with them an automatic match, which the categorical programs did. So I think it is conceivable that the States may have a little more flexibility, that there may be slightly less pressure on State resources than there had

been in the past, when we were talking about a host of categorical programs all having a local match. So I think we may be freeing up some State resources to fill these gaps, and I would hope, as I indicated earlier, that the elderly will compete very well for those resources.

But I think the danger you mentioned is always there, because we have heard it for years involving title V, the employment program, where many of the CETA prime sponsors have argued that they did not really have to provide employment services for older workers; because title V existed, they had their own categorical program, and that somehow exempted them from responsibility. We would hope that that would not happen, but that argument can always be made.

Senator HEINZ. Now, under title III, the administration has proposed to repeal the 50-percent requirement for the spending on the three priority services—access services, legal services, and in-home services. Do you believe that the State and local agencies now have the capability to reasonably determine the needs of the elderly in their communities and establish service priorities to meet those needs?

Mr. RUST. Yes, sir, we do. The aging network has now been around since the 1973 amendments. The area agencies, I think, are quite well-organized. The States are well-staffed, even the smaller States. They have grown quite a bit, they are well-staffed. They all, almost across-the-board, have active lay advisory bodies. We think that they can set those priorities better than we can in Washington.

Senator HEINZ. Have you received such comment from the State aging agencies, specifically?

Mr. RUST. It is my understanding that the national organizations representing both State and area agencies are supporting this provision, and I have yet to have a State even informally, just as a result of our testimony a few weeks ago, comment adversely on this position. Many of them feel that the differences in Rhode Island are much different than Montana, and it is very hard for us to set three of them here in Washington legislatively.

Senator HEINZ. Have any of the other providers of services or recipients of services expressed any concern on this?

Mr. RUST. Not that I am aware of.

Senator HEINZ. Regarding title IV, given your proposals to permit the Secretary to tap title IV funds for crosscutting activities and the findings of GAO regarding AoA's direct control and management of AoA funds, what effect do you think the administration's proposal will have on support of programs focusing on aging problems and the needs of the aging network?

Mr. RUST. That particular title, Mr. Chairman, in the present budget, has undergone a substantial budget cut—something in the neighborhood of 46 percent, I believe, in the title IV discretionary money. We chose consciously, as a department, to take the cut requested from OMB in discretionary funds under our control, rather than from services across the country. So we did that deliberately. The feeling was that in the old title, there were a great many specific legislative directives in it. We felt we could no longer fund all of those from a smaller pool of money, so we asked, really,

for permission to collapse that down into a management resource. We think we will continue to carry on all of the services basically that we have been doing, but probably each will be done at a somewhat reduced level.

Senator HEINZ. Well, why do you deem it advisable to have the Secretary do these things, as opposed to the Commissioner?

Mr. RUST. The Secretary has some additional resources through the Office of Human Development Services, and so forth, where they look at, for instance, whether there are experimental modes for transportation that would help both, say, the handicapped and the aged. And the point becomes, if we are too rigid in the way we draw this language, it is very difficult for AoA to enter into an agreement where you do that kind of joint exploration and model projects, because of the restrictive language which is currently in the bill.

We would keep the language which says that all of the money appropriated for title IV can only be spent on research, model projects, and training in the field of aging, to achieve the purposes of the act, but we would allow the Secretary a little more in the so-called crosscutting areas a little more flexibility to undertake jointly funded projects under his control. And the way it is done right now, the only way you could do that would be if the rehabilitation people, the handicapped office, would turn the money over to AoA, because the Administration on Aging would have to administer the jointly funded project. This says that we would have a little more flexibility to make different arrangements to do these model projects.

Senator HEINZ. Finally, regarding title V, Albert Angrisani, the Assistant Secretary of Labor, testified before the Senate Committee on Labor and Human Resources that the administration is proposing a 1-year extension of the authorization in order that the title V authorizations coincide with the CETA authorization.

Do you favor the 1-year reauthorization, or should it coincide with the Older Americans Act authorization?

Mr. RUST. Specifically under the law, that title is administered by the Secretary of Labor, and the Department of Health and Human Services feels that it does not have either a position on or jurisdiction over that particular part of the statute. We defer to the Secretary of Labor on that area.

Senator HEINZ. Senator Grassley has joined us. Chuck, do you have an opening statement you would like to make?

Senator GRASSLEY. No, I do not have an opening statement.

Senator HEINZ. Please feel free to proceed if you have any questions for Mr. Rust.

Senator GRASSLEY. Obviously, since I was late, I did not have a chance to look at your testimony, and I did not look at it before you came, either. So you will have to pardon me for that. But I would like to tell you some existing aspects of the legislation that I would like to maintain and encourage you to support, and hopefully, your testimony does, and if it does not, then obviously, there are some differences that we will have to resolve.

But I am concerned because in the last administration, I felt that there was some effort to link Older Americans Act programs, with general welfare-type programs. And I am speaking conceptually

here, as opposed to specifics. And I want to keep the uniqueness of the Older Americans Act programs. I do not want people who participate in these programs to feel the sting of welfareism, because I think that there is more than just helping the needy involved with the whole concept of Older Americans Act programs, and that is generally to keep senior citizens, retirees generally, in the mainstream of American society, not only to solve basic nutritional needs as the congregate meal program might, for instance, hope to accomplish, but also to encourage people who otherwise would not mix in society generally to give them an environment to so do. And I think that there were efforts in the past to obscure the uniqueness of these programs by merger, at least conceptually, with other programs in HHS.

Second, and maybe most importantly, not only from my recent involvement with this program over the past several years as a member of the House Committee on Aging and the ranking Republican for the past 2 years, but probably more importantly now because of the budget restraints that we find ourselves in, we need to use as much of the available resources of the Federal Government as seed money to promote volunteerism—that is for the benefit of those who receive services who would not otherwise receive services if the volunteer aspects of the program were not maintained. But also, I think that there is a sharing, a giving of oneself, a little more brotherly love involved with the volunteers themselves if they are encouraged to so help others. And I am not speaking just in terms of people with need, because usually when we think of need, we think of just the basic needs for a human to survive physically, and we are thinking psychologically as well as physically.

I hope that this administration will continue to emphasize the uniqueness of the Older Americans Act program, and I hope your testimony has said that.

If you have any comments or reaction, or if you tell me I am wrong, I appreciate it.

Mr. RUST. I could not agree with you more, Senator. And I would note that our bill does not propose adding a means test or anything that would move the statute any further in the direction of a welfare program.

And I think we are conscious of two points which I would like to make in responding to you—one that somewhere around 80, 85 percent of the older Americans are ambulatory, they are alert, they are in reasonably good health, they own their own homes in many cases. We tend to overlook that. I am not saying that there are not a lot of elderly who have special needs, and we need to meet those needs. But one of the things I think we need to do is encourage those people who are in a position to take care of themselves and to continue taking care of themselves to do so and not to become dependent upon governmental programs, unnecessarily.

One of the things we have done, and I think one of the centerpieces that this administration is trying to do is to recognize that for those people, for those 80-plus percent of the elderly, the most devastating thing that the Government does to them is to allow inflation to run out of control, as we have done for the last 15 years. At a 7-percent inflation rate—which would look good, by the

way, after the last few years—at a 7-percent inflation rate, their buying power is reduced by 50 percent in 7 years. And we have had a much higher rate. So what I am saying, really, is that for elderly people living on fixed income, probably the greatest contribution we could make as a Government would be to bring inflation under control and free them from the fear of impoverishment by inflation.

And I could not agree with you more on your comments on volunteerism, because I think it is a unique American tradition. I think reading de Tocqueville, it is interesting how not only unique it is, but how much of a surprise it was that he found Americans so willing to engage in volunteer operations. And family, friends, neighbors, church parishioners, and so forth, are the primary caregivers for the elderly in many parts of this country. And I think that is not something we want to discourage, but in fact, we should encourage it.

Senator GRASSLEY. I want to go beyond, though, what de Tocqueville was talking about involving solely the private sector charitable institutions of American society, but part of the aspect of the Older Americans Act was to get the Federal Government involved in the promotion of that through a direct appropriation. One other way we have historically done that is through tax exemptions for charitable giving, and I would hope we would even get more of an emphasis on that, because in the last 10 years, that has been deemphasized because of the very extreme tax policies of the last 10 or so years. But I am talking about the resources of the Older Americans Act helping to broaden what the private sector has historically done in America, that de Tocqueville recognized 150 years ago.

Am I right on that? Is that the direction that this administration will go?

Mr. RUST. The answer is "yes." I think you are right on that. And the Acting Commissioner notes to me that about 300,000 volunteers are now involved in the Older Americans Act programs, helping to provide those services, and we are looking for ways to encourage an even greater volunteer commitment.

Senator GRASSLEY. So, since you have the Acting Commissioner with you—and I am sorry I did not say hello to him, as well—and I think that this is somewhat unrelated to the Older Americans Act, but we had the problem with the last Secretary of HHS not wanting to give the Commissioner on Aging the authority or the independence that we specifically demanded in an amendment on a bill recently passed. Congressman Biaggi was the guns behind the more strict directive to the Secretary of HHS, in regard to the independence of the Commissioner on Aging.

Now, I would expect that this administration would follow the directive of Congress to a greater extent. Did I make myself clear?

Mr. RUST. You did, indeed, and I think certainly, since Secretary Schweiker was a Member of the House and Senate for 20 years, I think he is very sensitive to the will of Congress. And certainly, after having been a staffer up here for 10½ years, I am very conscious of the fact that we should seek to determine congressional intent and carry that intent out at every opportunity.

Senator GRASSLEY. Thank you.

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Those are all the questions I have, Mr. Chairman.

Senator HEINZ. Just a couple of other questions. The administration proposes a 3-year authorization. The White House Conference on Aging will be making recommendations late this year, possibly early next, depending on how rapidly they work. But why would one want to wait 3 years before having a more or less definitive opportunity to address those recommendations?

Mr. RUST. Mr. Chairman, I think it is going to take longer than that to digest, really, the outcome of the White House Conference. I think history is on our side on this one. Let me just give you a little scenario. The final report of the Conference is not due to the Secretary and the President until June of next year, 180 days after the Conference. Then the Secretary has, I think, another 90 days or so to react to it. So that puts us into the latter part of 1982 before that process is finished.

And I think if you look at what happened in 1961 and 1971, there was a little bit of a period of digesting those recommendations and allowing them to sort of work out through academia, through the aging organizations, before they started to come back as legislative proposals. Medicare, medicaid, the Older Americans Act were enacted in 1965, 4 years after.

So I think a 3-year extension does not preclude anything and in fact, allows a little more time for the maturation and understanding of those recommendations.

Senator HEINZ. Which means that under a 3-year authorization, you would see legislative action by the Congress in calendar year 1984 to reauthorize major changes?

Mr. RUST. Yes, sir, because one of the problems we would have under the Budget Control Act is we would have to submit legislation to you almost simultaneous with the reporting process if you gave us a 2-year extension. I believe the bill would have to come up sometime in the spring or summer of next year. So as an administration, we would be juggling a bill long before we had even, perhaps, proceeded with the whole commenting and reacting period to the report, and I just think you then would not get the incorporation of those findings the way you would want them.

Senator HEINZ. Under the existing Older Americans Act, the law and regulations now require a preference for hiring aged, 60 years or older, persons in the State and area agencies. They do not specify methods or quotas. In 1980, approximately 9 percent of the staff of State units on aging were persons 69 years of age or older. That is down from 10 percent in 1979. Area agencies on aging report some 25 percent of their paid staff are over 60, the same percentage as a year ago. Eighty-five percent of the volunteers in area agencies are over 60. The obvious question is, why can't we do a bit better in terms of State units on aging and the area agencies on aging, in terms of meeting that preference?

Mr. RUST. As a Department trying to implement that provision, we keep bumping into State merit requirements. And in fact, I think Congress has always been somewhat vague in writing that provision of the law, because they were reluctant to tell the States, and perhaps, I guess, were even raising constitutional questions about their ability to tell the State and local governments what their hiring requirements had to be. So we have always seen that

language as an encouragement, as a goal to shoot for, but not something that was a very enforceable provision because of the separate requirements at the State and local level for merit hiring.

Senator HEINZ. That is the answer that I have gotten from a number of State agencies, as well.

Senator Grassley, do you have any further remarks or questions?

Senator GRASSLEY. No, Mr. Chairman.

Mr. RUST. If I could add just one brief thing, Senator, on the question of the 3-year extension. The aging network has been through a pretty good shakeup in the last few years. The 1978 amendments were a major restructuring of the act, and it required a great deal of a kind of a ripple effect through the network and realinements and reorganizations at the State and local level.

And I would remind you, because you were instrumental in helping to press the previous administration on this matter, it took them a long time to get their regulations in place. In fact, on the 1978 amendments, the regulations have only been in effect for 13 months, since March of last year.

Senator HEINZ. Perhaps that is because they insisted on having the Commissioner report to OHDS. [Laughter.]

Mr. RUST. No comment. I was just going to add, however, that we think that by going with a 3-year extension, you get greater stability; it allows a greater period of time for the settling down, as well as for digesting of the White House Conference recommendations; it allows a greater period of time for the aging network to settle in and to carry out these programs.

We basically see the recommendations we are making in this proposed law, the bill that we hope will be transferred today or tomorrow, as fine-tuning that system—not as a major rewrite, not as a controversial change in the act, but really as a way of fine-tuning and streamlining the performance of the act at the Federal, State, and local levels, hopefully lightening the paperwork burden, the regulatory burden, and giving the States greater flexibility to meet these needs. We think that that is what we are doing. It is a finetuning measure and quite consistent with the spirit of the act as passed 3 years ago.

Senator HEINZ. This is one question that I think I should appropriately address to Mr. Handelsman. My recollection may be flawed on this, but I seem to remember that there was an amendment either to the Older Americans Act of 1978, or subsequently, that HEW, as it was then, or HHS, as it is now, come forward with a plan for long-term care. Senator Cohen, I believe, was the author of that rider or amendment. Are you familiar with it?

Mr. HANDELSMAN. Yes, I am. There is a section in title IV that calls for long-term care services demonstrations, and there is underway in the Department such demonstrations, which have been underway for about a year. It is a 4-year program, I believe, that is planned. We expect that that will continue, perhaps at a somewhat lower level, but it will continue in all its aspects.

Senator HEINZ. Was there not also a requirement that asked for recommendations to the Congress on what a long-term care policy should consist of? Actually, I am sure Dave Rust remembers this subject very well. David, do you want to comment on that?

Mr. HANDELSMAN. There was a report that was prepared.

Mr. RUST. I think that the Cohen amendment required HCFA to file a report on the state of the art of home health care, and as I recall now, I guess the spring or late winter of the year before last, a proposal was sent up that had no recommendations, drew no conclusions. And Congress, I think, in the first time since the Civil War, rejected an executive branch report, sent it back to the Department and insisted that they carry out the law, and a second report was submitted in, I think, November 1979, that covered the state of the art of home health care and made some recommendations, even though the then Secretary specifically said that they were not necessarily recommendations of the administration.

Senator HEINZ. Is the Administration on Aging fairly deeply involved in the HCFA demonstrations?

Mr. HANDELSMAN. We are jointly involved with HCFA, and the Assistant Secretary for Planning and Evaluation has the lead on this total initiative.

Senator HEINZ. I anticipate the committee will want to have some hearings later in the year on the question of home health services and other long-term care initiatives, and we will be in touch with you later.

I think that completes the questioning, Mr. Rust and Mr. Handelsman. Thank you very much for being with us. We appreciate your testimony. We hope you get your bill out today or tomorrow. I am sure you will.

Mr. RUST. We hope so, too. Thank you, Mr. Chairman.

Senator HEINZ. Our next witnesses will be Dr. Hudson of Brandeis University and William McCormick of the General Accounting Office.

Dr. Hudson, would you please be our leadoff?

STATEMENT OF DR. ROBERT HUDSON, WALTHAM, MASS., ASSISTANT PROFESSOR OF POLITICS AND SOCIAL WELFARE, FLORENCE HELLER GRADUATE SCHOOL, BRANDEIS UNIVERSITY

Dr. HUDSON. Thank you very much, Mr. Chairman.

I am honored to appear before you today. I have followed the work of the Senate Special Committee on Aging for several years, and I am well aware of the impact your work has had on programs and appropriations affecting the elderly.

I am currently on the faculty of the Florence Heller Graduate School of Brandeis University, and am associated with the school's program in the economics and politics of aging. I have done work in two areas that I think are of interest to the committee this morning: One, concerning Older Americans Act program design and implementation, and the other, dealing more broadly with the question of block grants in the human services.

I find myself largely supportive of what I understand to be the administration's bill for reauthorizing the Older Americans Act. I think the 3-year authorization makes sense, for the reasons given earlier. I favor the fact that the basic structure of the agencies operating under the act would be left largely intact.

I think what we can get here is the best of both worlds, namely, having the advantages of a block grant contained within what is largely a categorical grant devoted to older persons.

One of the reasons for supporting this concerns continuity. In my estimation, we need continuity and the maintenance of the structure under this program because of the severe cutbacks that are proposed in medicaid and the block grants that may be forthcoming in the other health and social service areas.

I think what we have in the maturing aging network are agencies in many parts of the country that are capable of maintaining and expanding the benefits that the elderly need. Those efforts will be of great import in the coming years.

Let me devote my specific remarks to two areas concerning the reauthorization. One concerns the consolidation of the title III authorization and one concerns the priorities under title III–B.

I find myself differing, at least on the margins, with the administration's proposal. I think there is a case to be made for maintaining at least some priorities, if not imposed at the national level, then at the State and area levels in order to determine in advance what areas of need seem to be greatest in their jurisdictions.

Regarding consolidation, I am more open. I do have some concern, especially concerning lobbying and undue pressure. A congregate meal or a home-delivered meal lobby or a particular social service organization might, for example, overwhelm needed but nascent service interests in a given area. I would hope that some modest protection could be left in the law that would preclude some of these things from happening. But again, I am less concerned with the consolidation effort in that regard than I am with the priorities.

My reasoning in both these areas is straightforward. There is no question that the block grant idea and here, affecting both consolidation and eliminating priorities, makes a lot of sense. Certainly, it does in theory, and it often does in practice. The block granting of these programs can allow much greater flexibility to State and local decisionmakers. It cuts enormously the amount of redtape, paperwork, and other forms of regulations, and it allows related service interests at the State and local level to work much more closely together than they can when they suffer from what Terry Sanford once called the "hardening of the categories." And I think that loosening that up makes sense.

My concern with totally opening up these provisions lies in two areas. One concerns problems that can crop up in the process of decisionmaking at the State and area level, and the second concerns problems more inherent to small agencies living in highly charged political environments.

On the first point, the concern and interest everyone has in public participation in local decisionmaking is obviously well-founded. People in their areas know their needs best. Certainly, people over 60 in a small community should have a better sense of what they need than officials far away.

The concern comes when, in any kind of setting—and localities need not be different than the National Government in this regard—the process is not fair. Not everybody chooses to participate; not everybody can participate. I think the record will show that in title XX and other areas where public hearings have been required, public participation is usually very low. If you look around an auditorium where a hearing is being held, often the

room is only half-filled, two-thirds of those people will be providers of services, and a few older people will have come in, but not a great number. So in that sense, the emphasis on public participation with local decisionmaking concerns me.

In the informal aspect of decisionmaking at the local area, I think the actual recipients also can get left out of the process. That is, decisions are made by planners, officials, providers, professionals, and so forth, and this being done often behind closed doors may be a deficiency in the process.

I think what then happens—and I am intentionally painting a bleak scenario here to make my point—is that the representation of the needs of older people in this kind of process falls to the good will of the people who are actually involved. It falls to surrogate representation by people such as I just mentioned, and it falls to my next topic of concern, the people working in the agency itself.

The second problem in opening up everything under the legislation is that, while the network agencies at the State and now the area level have increased their capacities rather dramatically over the last several years, they are still, in most cases, relatively small agencies. In the case of area agencies, they are still relatively new and many of them are understaffed. A recent study reporting on data in 1978 found that nearly half of rural area agencies have two or fewer professional staff members. That is not a large number of people to get a lot of work done.

The danger in this regard is that an agency may be new, relatively weak, and now be facing new program decisions if legislation gets totally redrafted and opened up. That in the 1980's, they are also facing a very tough new world with regard to increasing demands and fewer funds further intensifies their difficulties.

What I would simply suggest in this regard is that concerns such as this be kept in mind as removing all priorities and totally consolidating title III is considered. I think some of it makes a lot of sense, and I am not going to the wall over this kind of argument. But I do think there are going to be some number of agencies who look to the legislation itself, to the guidance in it, and to the national objectives reflected in it and say, "OK, that is what we have got to do." And if somebody comes to them and says, "I want to do something different," and it seems to be less desirable in their estimation, the fact that agency personnel can turn to the legislation and say, "Yes, but we do have to make sure that in-home and access services are provided," is a form of protection, if you will, that serves the agency and the people needing those services rather well. It is important to keep in mind as well that to say that 50 percent of your funds need to be spent on access and in-home services, leaving aside legal services for the moment, is not an onerous burden. That is, when one thinks beyond what access and in-home include, you are going pretty much to major substantive services in the health and mental health area, which no one thinks area agencies should be providing in any event.

So on the one hand, I do not think you have restrictions that are overwhelming. And I think for those agencies that are still struggling a bit, having those priorities and restrictions might actually be very helpful.

My second set of comments here concern what I would call the mandate or orientation of network agencies as it is developed over the years. The distinction, as you know, has often been between what is called advocacy on the one hand and developing service networks and systems on the other. And with the coming of the area agencies in 1973, my impression has been that the network—in fact, the network metaphor itself came in about 1973—has tended to turn inward a bit. That is, the major concern has been with getting services going—funding providers, monitoring, worrying about coordinating one thing or another. That has been fine, and I think it has turned out that this concern has helped these agencies and the other agencies they are working with become stronger, more viable, and more capable in their own environments.

But I would say to you, at this point in time, however, that the legislative language and other more informal means of appeal directed toward advocacy, looking outward, trying to get agencies to move other agencies and public officials in their areas be strengthened because this network is going to be in a world it has not been in before, and there are cuts coming that are very major. I think, Senator, your question earlier, concerning that other human service groups may say to the elderly, "You have your program; why should we fund you out of title XX or something else?" is very well taken. I would urge including provisions in the legislation that can help strengthen these network agencies in light of these pressures and changes.

Thank you very much.

Senator HEINZ. Thank you very much, Dr. Hudson.

[The prepared statement of Dr. Hudson follows:]

PREPARED STATEMENT OF DR. ROBERT B. HUDSON

Mr. Chairman and members of the committee, I an honored to appear before you today. I have followed the work of the Senate Special Committee on Aging for several years and am well aware of the impact the work of the committee has had on programs and appropriations affecting the elderly.

I am currently assistant professor of politics and social welfare at the Heller Graduate School, Brandeis University, and I am a faculty affiliate of the school's program in the economics and politics of aging. Aging politics and policy have been a principal substantive interest of mine for the past 8 years. I have done work in two areas which are of concern to the committee today: Issues in the design and implementation of Older Americans Act programs (especially title III), and issues associated with the block grant-in-aid mechanism in the human services.

This morning I would like to address myself to several of the major issues concerning reauthorization of the Older Americans Act. I find myself in agreement with the overall thrust of what I understand to be the administration's reauthorization proposal. I do, however, have some reservations and suggestions concerning certain areas.

REAUTHORIZATION FRAMEWORK

I favor reauthorization of the act for a 3-year period without major structural alterations. Whatever deficiencies may exist in the legislation, a period of relative continuity is called for. This is in part due to the delays in issuing final regulations under the 1978 amendments, but it is due more to the major changes which are taking place in human services programs at all levels of government.

Proposed consolidation of a number of health and social service programs into four block grants with spending reductions on the order of 20 to 25 percent and capping the medicaid program, as proposed, will place extreme pressures on all human service programs whether they are directly affected or not. While it is fortunate that the Older Americans Act has been spared inclusion in the consolidation effort, these major changes—should they become law—will nonetheless affect

Older Americans Act programs and agencies. The volume of health and social services available to current recipients—significant numbers being both low income and elderly—will decline. This will have the ripple effect of increasing demand for selected Older Americans Act services and, as I will discuss in more detail momentarily, will call on aging agencies at all levels to undertake major advocacy initiatives.

In short, I believe that reauthorization of the Older Americans Act for a 3-year period with relatively minor internal modifications is very much in order and should be supported.

TITLE III CONSOLIDATION AND REPEAL OF SERVICE PRIORITIES

The 1978 amendments brought the former titles V and VII into a new expanded title III. However, separate authorities for social services and senior centers (III-B), congregate nutrition services (III-C-1), and home-delivered meal services (III-C-2) were created. The administration proposes combining these authorities into an undifferentiated title III, with a "hold-harmless" clause for fiscal year 1982 nutrition expenditures.

The 1978 amendments also required that 50 percent of title III-B funds be allocated toward three priority service areas: Access services, in-home services, and legal services. This was itself a modification of a 1975 requirement that 20 percent of title III-B funds be allocated toward four services (transportation, home care, legal services, and home renovation and repair). For the 1981 reauthorization, the administration proposes that all such priority services be removed.

Because these are the principal changes proposed for the title III program and because there are important questions to be raised about the common rationale behind both sets of changes, I wish to devote the bulk of my remarks to them.

At a time when there is widespread concern about "big government" and bureaucratic excess, there is understandable appeal to the idea of decentralizing and consolidating program authorities. Undifferentiated national programs can be unresponsive, ineffective, and ensnarled with reporting and paperwork requirements that are clearly dysfunctional. Sending program responsibility "back to the people" can serve to eliminate many of these problems and bring about additional benefits as well. Among these may be: Allowing greater program coordination near the point of delivery; eliminating what may have proven to be excessive decisionmaking junctures between Washington and the States; acknowledging the variety of needs and concerns that inevitably exist in a large Nation; and creating stronger institutions and more active participation in the newly empowered subnational jurisdictions.

The desirability of attaining any of these objectives is beyond dispute. the point here is simply that it should not be taken on faith that these are the results that will inevitably follow program decentralization and consolidation. Proponents make a number of assumptions about how the political process will play out when wide discretion and latitude are left to States and localities.

Take, for instance, two of the principal assumptions. The first holds that public access and participation can be greater in local settings. A large proportion of those who might be affected by program decisions will be able to involve themselves in the decisionmaking process. In many human service areas, this assumption often appears to be unwarranted. Access during the critical preliminary stages of decisionmaking is usually limited and selective. Attendance at public hearings is usually woefully low, and it is often the case that it is providers of services rather than consumers who attend.

It is also assumed that obtaining an accurate and objective assessment of service needs is more easily attained at the local level. There can be no question that the possibility of doing so is much higher than for a State or Nation, but the local decisionmaking process need not be dictated by objective needs assessments alone. Put somewhat differently, there is no necessary reason to expect that those members of the public or of a general service constituency will participate in proportion to their need for service. If any argument were to be made in this regard, it would be that there is an inverse relationship between how much one needs social or health service and how likely one is to (be able to) participate in a decisionmaking process.

A second assumption supporting local decisionmaking discretion focuses more on the public agency that is officially charged with program responsibility. As with the public at large, agency personnel are "close" to local needs, can solicit opinion, and be responsive to new needs or developments. Consider, however, the agency that is weak (in terms of expertise, leadership, standing in the community, etc.); that finds itself in a highly charged political setting; and that finds itself as well with new and greater program responsibility. To such an agency, the new responsibility may be

more of a curse than a blessing. More important, such an agency will be in a poor position to make decisions which reflect reasonable program priorities for its clients. It may not have the capacity to undertake an adequate assessment of needs. And, if it does, it may be pressured by consumers, providers, or officials who are bringing their individual agendas to bear.

To quickly illustrate the potential problems with these assumptions, I have intentionally portrayed two notably bleak scenarios—one of a faulty citizen participation process, and one of a public agency clearly in need of assistance. My point is simply that the decisionmaking process at the local level—whether it emphasizes public participation or agency determination—may be flawed.

While I can present no instant solution for situations such as these, I believe that there are two helpful directions in which to move. The first—concerning legislative stipulations—bears most directly on the consolidation and priorities issues concerning title III authorization. The second direction focuses on the capabilities and orientations of agencies comprising the aging network and is discussed separately in the section which follows.

Legislative stipulations can be imposed at any level, and their exact content can vary in different settings. In the context of this discussion, their importance is not much precisely what they require or mandate, but rather that they provide the implementing agency with "protection" against pressures to move in directions agency personnel may deem unwise. As to their form, such provisions might set forth specific service or eligibility criteria or they might require only that certain types of choices or broad patterns of allocation be established. In either case, the import is that some checks and safeguards are present.

The relevant provisions in the case of title III are the enumerated service priorities under section III-B, the separate nutrition appropriations under section III-C, and the requirement that preference be given to older persons with the greatest economic and social need. This provision concerning economic and social need should be maintained, not only because of its definitional property concerning need, but because these are the very persons who are unable to participate effectively.

I believe that in the cases of consolidation and priority services, some compartmentalization should be retained, but it need not be what is currently in place. Because I am sympathetic to the concern with services fragmentation that led to the 1975 and 1978 provisions, I would support maintenance of priorities. I also think strong cases can be made for each of the three service areas designated (taken together as well as separately), but with the exception of legal services I would not oppose substitutions which were in keeping with the purposes of the act. I support maintenance of legal services as a national priority because of the critical assistance it affords older persons in dealing with a host of generic programs and agencies that centrally affect their well-being.

I would also favor the inclusion of some fairly flexible boundaries in the event of title III consolidation. These would not be designed to impose rigid expenditure quotas, but rather to preclude the possibility of a massive influx into one service area. Concentration of effort is an understandable objective of most planning efforts, but where its attainment means that other needed (and interrelated) activities must be sacrificed, it should be avoided.

AGENCY ORIENTATIONS

Maintaining some internal stipulations concerning priorities and consolidation is one means of providing at least some relatively unobtrusive national direction and guidance. It can also help the aging agencies operating at the State and sub-State levels to move in certain directions. These could be the three priority areas contained in the current title III-B, or the particular priorities could be left more, in this case, to the area agencies themselves. In either case, the legislation can be understood as a resource which assists, rather than burdens, aging agency personnel.

A more immediate and direct way of improving agency decisionmaking focuses on the kinds of choices an agency makes about how to do its job and the skills and resources it can bring to bear.

Let me speak first to the orientation aging agencies may take. Over the years the State and area agencies on aging have been confronted with two rather different mandates. One focuses on the development of service networks and linking different service providers together into a coordinated local delivery system. The second has been an advocacy function which has involved trying to get other public and private human service agencies, elected officials, and the public at large to take greater cognizance of the elderly and their needs.

With different levels of emphasis, both the delivery system and advocacy mandates have been contained in the Older Americans Act since 1965. It is my impres-

sion, however, that with the passage of time the advocacy role has taken second place to the need and desire of network agencies—especially the area agencies—to develop and oversee a viable service effort within their planning and service areas. The prominent legislative concern with what was known as "pooling untapped resources" during the middle 1970's reinforced this move. Bringing in non-Older Americans Act resources was both an important and difficult step for the still relatively small State agencies and the new area agencies, yet many have been able to mobilize significant amounts of funding from both Federal and State sources.

There is now both a need and, in many areas, a new ability to renew the advocacy role. The need for an advocacy or "outward" orientation by network agencies lies in the continuing reality that it is nonnetwork agencies that provide the major share of income and in-kind benefits for the elderly. In this regard, network agencies must apply themselves to a two-part strategy: Working with other human service constituencies to limit the damage and, within the available funding, seeing that older persons with legitimate needs continue to get served if at all possible.

This will be neither an easy nor an attractive role to play under present circumstances. Should the basic structure of the Older Americans Act keep its present form, there may be something of an incentive for network agencies to devote most of their energies toward maintenance and refinement of their title III and related programs efforts. Where this occurs it will mean, in turn, a less activist advocacy stance. It is my impression, as well, that the administration bill is encouraging this kind of pullback in its recommendation that the "review and comment" requirement/authority be made "to reflect more accurately the realities of authority, position, staff limitations, and budget." I believe this kind of retrenchment would be a mistake. If anything, State and area agencies should be encouraged to become more actively involved in human service policy developments.

I would also emphasize the potential role of the State agencies on aging in this regard. With the advent of the area agencies the intended role of the State agencies became somewhat unclear. Their individual orientations within the "vertical" world of Older Americans Act agencies continue to vary. As devolution of a wide range of program authority to the States takes place during the years ahead, it is important that the State aging agencies participate in the "block grant decisionmaking" process. I suspect that a common argument to be heard as this overall scenario plays out will be that "the elderly have their legislation so we can give them lower priority in these other health and social service programs." For the frail and low-income elderly, that statement is patently false, and it will fall in large part to State agencies on aging to make that clear.

As a final comment here, I would reiterate that maintenance of legal services as a priority within the act should be continued. The individual and collective rights of older persons can be directly protected in the legal arena, even as the general political climate shifts. Considering that the proposed Federal safety net holds no particular place for the medicaid and food stamp programs that assist many low-income older persons, the continued support of legal intervention takes on new importance.

AGENCY RESOURCES AND CAPABILITIES

The success with which network agencies can implement both the service development and advocacy functions mandated by the Older Americans Act lies for the most part in the strengths of the agencies themselves. Agency leadership, the skills of key staff, and an ability to mobilize community and agency support can overcome many obstacles in program implementation. Funding levels, the political climate, agency auspice, and other factors are clearly relevant, but internal agency capacities are most noteworthy. The literature on policy implementation in general and encounters with program officials reinforce the perception that if a few key individuals associated with an agency are skilled in leadership and administration, the prognosis for effective programing is favorable.

The capabilities of State and area agencies around the country vary widely, and this fact makes sweeping generalizations hard to come by. But to the overriding questions of "Are these agencies effective?" and "Should the legislation that supports much of their activity be continued largely as is?" there is evidence that agencies operating under this legislation have developed high quality service systems that are providing a range of needed services to older persons. This does not resolve the ultimate question of the overall effectiveness and efficiency of Older Americans Act programs, but it does indicate that committed and qualified personnel can get results.

The major reservations I have about the legislation and especially the moves proposed to decentralize it lie in the problems encountered by network agencies that are understaffed, limited in trained personnel, and charged with responsibilities

that they are not organizationally capable of fully carrying out. My recommendation in this vein—at least for the years prior to the next reauthorization of this legislation—would be in the areas of recruitment, training, incentives, and leadership development. With its adolescence largely behind it, the network can now enter an institution-building phase which will enable it to secure itself more solidly in the local terrain. As I indicated near the beginning, one of the presumed advantages of block grants and inceasing local agency discretion is that this fosters this institution-building capacity. Many State and area agencies have by now developed a core of knowledgeable and skillful personnel; others should be able to do so as well. It is efforts in these areas that may prove more important than modifications that are made in the legislation itself.

I believe that loosening some of the restrictions as proposed here and in the administration proposed can allow the stronger agencies the latitude and flexibility to move more effectively in their service and advocacy efforts. At the same time, maintaining broad national objectives and priorities will provide direction and limited protection to agencies in a weaker position.

In closing, I find myself more favorably disposed toward the network and area agencies in particular than I did a few years ago. This is, in part, because of the development alluded to above. On a more political note, it is important to have these agencies in place in the present environment of constraints and cuts. In particular, they can work at the State and sub-State levels to protect the interests of the vulnerable elderly who are threatened by cuts in key programs.

Senator HEINZ. Mr. McCormick, I see you are accompanied by several people.

STATEMENT OF WILLIAM J. McCORMICK, WASHINGTON, D.C., DEPUTY DIRECTOR, FEDERAL PERSONNEL AND COMPENSATION DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JANE TRAHAN, EVALUATOR, AND JOHNNIE E. LUPTON, ATTORNEY-ADVISER

Mr. MCCORMICK. Yes; I would like to introduce them to you. First, Jane Trahan is the GAO evaluator who was in charge of the review that we will be discussing; and Johnnie E. Lupton is the attorney-adviser who worked with us on legal questions raised in the review.

Mr. Chairman and members of the committee, I appreciate your invitation to appear before the committee today to discuss the April 20, 1981, report on the organizational relationship of the Office of Human Development Services and the Administration on Aging.

The former chairman of this committee requested this review because he was concerned about how OHDS' organization affected the operations of the Administration on Aging.

The main focus of our review was the legality of certain delegations of the Commissioner on Aging's authorities. Our review was limited because OHDS was still undergoing phases of its 1980 reorganization, and our review covered the period June to December 1980. OHDS was still in the process of finalizing functional statements on the responsibilities of its reorganized units late in January 1981, and staff were still meeting to clarify their roles, and revise procedures and guidelines.

The Older Americans Act of 1965 created the Administration on Aging and placed it within the Department of Health, Education, and Welfare—now the Department of Health and Human Services. In 1973, the Secretary of HEW established OHDS and placed it under an Assistant Secretary to oversee a wide range of human services and development functions, including those performed by the Administration on Aging. The Older Americans Act was

amended in 1974 to prohibit the Commissioner on Aging's functions from being delegated to individuals not directly responsible to the Commissioner. We interpret the legislative history of these amendments as indicating that the Congress objective was to insure some independence for the Administration on Aging.

We believe the Secretary of HEW was authorized to create OHDS, place it under an Assistant Secretary, and make it responsible for program agencies, such as the Administration on Aging. However, OHDS' present organizational structure violates the nondelegation provisions of the Older Americans Act.

Since 1977, OHDS' discretionary grants and contracts administration functions, including those for the Administration on Aging, have been centralized in one of the staff units, the Office of Administration and Management, now the Office of Management Services. Although this staff unit performs many grant and contract administration functions for Administration on Aging programs, it is directly responsible to the Assistant Secretary of OHDS, not to the Commissioner on Aging.

OHDS grant officers share many responsibilities with the Administration on Aging. They and the Administration are jointly responsible for administering the grantee's performance and for monitoring project operations to assure that the Government's interest is protected. The grant officer also serves as the contact for all official written communications with the grantee which commit or may result in committing OHDS to a change in the amount of the grant, the grant budget, or any terms and conditions of the grant.

OHDS contract officers sign Administration on Aging contracts on behalf of the Federal Government and have final authority to approve or disapprove these contracts.

Using OHDS grant and contract administrative support services is not precluded by the act as long as the Administration on Aging controls such support services. This is not the case under the present structure, and thus, it is a violation of the Older Americans Act.

We believe the Older Americans Act was again violated in the OHDS 1980 reorganization. Financial management responsibilities for the Administration on Aging's discretionary and formula grants are centralized with those of other OHDS units in the regional offices of fiscal operations. The regional offices of fiscal operations report to the regional administrator who is directly responsible to the Assistant Secretary of OHDS. These offices plan and direct the fiscal monitoring of the Administration on Aging and other program units' grantees. Thus, the Older Americans Act is being violated because financial management responsibility for the Administration on Aging is vested in regional office personnel not directly responsible to the Commissioner.

The Department of Health and Human Services believes that the Older Americans Act, as amended, prohibits only the delegation of the Commissioner's policymaking functions. Under the Department's interpretation, the Secretary is authorized to approve the delegation of nonpolicymaking functions to officers who are not responsible to the Commissioner. We disagree with this interpretation. Moreover, as discussed previously, the grants and contract officers and the grant financial management personnel perform

significant functions, that to be in compliance with the act, should be under the direct control of the Commissioner.

Because of these violations, our report recommended that the Secretary of Health and Human Services revise OHDS' organization to discontinue delegation of the Commissioner on Aging's grant and contract administration and financial management functions.

Our review was not intended to determine if the changes necessary for OHDS to comply with the Older Americans Act will be more or less beneficial for program administration. However, if the Secretary finds that his complying with the act adversely affects his efforts to achieve effectiveness and efficiency, he should document any adverse impact and, if necessary, propose legislation to amend the act.

This completes my prepared statement. My colleagues and I will be pleased to respond to any questions that you may have.

Senator HEINZ. Mr. McCormick, your statement is very clear and to the point. You have identified, as I understand it, two instances where OHDS and HHS are, in your judgment, acting inconsistent with the statutory mandates of the Older Americans Act; is that correct?

Mr. MCCORMICK. That is true.

Senator HEINZ. Now, whether one believes or not that the current policy and current requirements as expressed in the Older Americans Act are correct, what legal problems does the current practice, which was initiated under the Carter administration, create for the department overall? Is there the possibility of any suits? Is there the possibility of any contracts being voided, or any other such problems?

Mr. MCCORMICK. There are a number of possible problems. I think the Commissioner, the prior Commissioner, expressed a number of concerns. But to answer you specifically, I would like to get our attorney adviser to respond.

Mr. LUPTON. We did not identify any specific legal problems that could result from this unauthorized delegation, but it is not clear; we are unable to—we really did not examine the problems that could result from that delegation.

Senator HEINZ. Now, as I understand it, your testimony, to simplify it somewhat states that somebody not authorized by law to sign contracts with grantees is signing contracts; is that correct?

Mr. LUPTON. No, sir. The person, obviously, who is signing the contract has authority to sign those contracts. The administration of these contracts, however, are functions that are, under the law, to be performed by the Commissioner. The signing of the contracts is by a person not directly responsible to him.

Senator HEINZ. Well, you say that somebody authorized to sign the contract is signing it. But I read the testimony differently. It says that somebody who does not have the authority under the law, to have under delegation of authority that power, is signing contracts.

Again, I am not a lawyer, so explain to me where my reasoning is wrong. But as I understand it, the Commissioner on Aging has not expressly delegated the authority to sign contracts to the contract officers at OHDS. For him to do so would be inconsistent with

the provisions of the law. The provisions of the law say that he, indeed nobody, may delegate that authority to somebody else, OHDS, that the contracts have to be executed in effect, therefore—that is the implication, as I see it—by the Administration on Aging. Now, where is that reasoning faulty?

Mr. LUPTON. Yes, sir; the person who is signing contracts, although he is not responsible directly to the Commissioner, has authority to bind the Government by virtue of the power that the Secretary of HHS has.

Senator HEINZ. This, I understand, and it is not that he does not have the authority—he is acting outside of his delegated responsibilities. But what is to prevent—and I do not know, frankly, who would do this—but what is to prevent someone—such as somebody who did not get a grant—from coming and saying that the contract that went to this other organization is invalid; it is invalid not because the person who signed it was not authorized, generally speaking, to sign contracts, but the person who signed it is ineligible to sign Administration on Aging contracts, and then they cite the provision of law in the Older Americans Act. Why isn't that a pretty good case?

Mr. LUPTON. Well, as I say, I think that the contracts that are signed are binding on the Government. The point is that I suppose that one might——

Senator HEINZ. It may be binding, but can they be invalidated by somebody who disagrees?

Mr. LUPTON. That possibility exists. A court might determine, I suppose, that the contracts were invalid on that basis.

Senator HEINZ. Well, if that possibility exists, it suggests that we had better get serious about resolving this problem. Either HHS had better resolve it, or we had better resolve it. But as I understand your testimony, there is a risk of invalidation of contracts, unless I misunderstand you.

Mr. LUPTON. I suppose that a court could make such a determination.

Senator HEINZ. Well, then, we have got a serious problem on our hands, wouldn't you agree?

Mr. LUPTON. I think that we do have a problem.

Senator HEINZ. That is what I was afraid of. I am not sure who the problem is more serious for, by the way, us or HHS. Right now, it is more serious for HHS, and I think we are going to have to have the administration address this issue a little bit more specifically, because as I read the provisions of current law, they are in trouble if they continue along the present road. Again, it is not the Reagan administration's initiative in this area. This started under Carter, under the former administration. But it is still a serious problem.

Dr. Hudson, your testimony was in many ways quite sympathetic to what the administration has proposed. You pointed out some problem areas, some rough edges, of what you described as disagreements at the margin.

One of your concerns was if the consolidations called for in title III were carried out that this might create some problems that perhaps an inordinate shifting of priorities might take place.

Now, the administration has proposed a "hold-harmless" provision for a year to deal with that. Why is that ineffective, or will it be sufficiently effective in dealing with the problem that you have pointed out?

Dr. HUDSON. I think that further alleviates my general concern on consolidation. The "hold-harmless" clause itself would obviously protect people, and it would also give people who were concerned further advance warning that things were going to be opening up. So I certainly have no problem with the "hold-harmless" clause. My concern—and this is basically the general point—that there are occasions where heavy lobbying will take place that puts emphasis on certain legitimate areas but it may close out other things that a number of people would argue to be equally good.

My concern on all this, and why I say on the margin, is that it is hard to know how often that might happen, and it is hard to know whether or not something in Federal legislation should be included to prevent that perhaps small possibility. So at this point, the "hold-harmless" clause sounds satisfactory to me.

Senator HEINZ. Leaving aside the question of whether the "hold-harmless" clause will address—sufficiently address—all your concerns, the consolidation under title III—part B, social services; part C-1, congregate meals; part C-2, home-delivered meals—as I understand your statement, you said that you felt that that was a good cure for "hardening of the categories." What substantive objections might people raise to that, even though it might not be your particular point of view? Are there any substantive objections?

Dr. HUDSON. To combining C-1 and C-2?

Senator HEINZ. Yes.

Dr. HUDSON. The only ones would be if there were some very distinct move of nutritional service dollars in a particular direction. Some people have complained—and this is obviously a very touchy issue under the Older Americans Act—that some number of people receiving the former title VII congregate meal services do not really need them, or need them less than some other people. The general argument is that, by definition, they are ambulatory, can get there under most circumstances, and that a greater emphasis should be placed on those who are more frail, older, and so forth, and who obviously tend to be in their homes more than a congregate setting.

So that is the kind of issue that would be raised. I, for one, would not exclude one for the other. I think moving ahead, the last comment I might make is that at some point, something like what is now III-C-2, the in-home meals program, could become part of a much more distinct long-term care policy with regard to noninstitutional services, perhaps combined with funds from titles XVIII, XIX, and XX of the Social Security Act. I believe that has been posed under a title XXI proposal.

Senator HEINZ. Yes, that is correct.

Regarding priority setting, what would be your reaction to a revision of the current language? That revision would strike the current language and replace it with a provision that assurances would have to be provided that at least 50 percent of the amount allotted for social services and nutrition, B, C-1, C-2, be expended

for the top three priority services as identified in the area plan as a result of needs assessment, planning, and community input.

Dr. HUDSON. I would favor that.

Senator HEINZ. And you think that would be directionally a correct way to go?

Dr. HUDSON. I think in all of these things, you have competing objectives about national concerns and local flexibility, and the dilemma is how to come out somewhere in the middle. And in part, because I see increased capabilities and program data at the area level, I feel quite confident that virtually all of them could take that provision and run with it in a very acceptable way.

Senator HEINZ. Mr. Rust indicated that about $300 million from title XX went to benefit the elderly. You indicated some concern about the pressure that was going to be placed on all human services programs, that the elderly might find themselves somewhat squeezed. What is the nature of the services now rendered under title XX to the elderly, and what is your judgment as to the extent to which those particular services would find themselves under more pressure than the average set of services under title XX?

Dr. HUDSON. My understanding of the ways in which the elderly benefit from title XX services, they are primarily in-home services, chore services, housekeeping, things that allow low-income older persons to maintain a reasonably independent existence at home.

The concern I have—and I borrow these figures from testimony given a few weeks ago by a colleague of mine, James Callahan, at the Heller School, on the possible effect of budget cutbacks in the human services area—his estimate, if the title XX program is consolidated with some others and cut 25 percent, is that older SSI title XX recipients would probably lose about $54 million in benefits during the first year that is in effect, and depending upon how you look at it, that is a large sum of money—not overwhelming, but it is big.

Senator HEINZ. That is $54 million of the roughly $300 million?

Dr. HUDSON. Yes; this is just the SSI elderly, on title XX.

The more general concern is the one that you voiced, that I alluded to, that as everything seems to get "blocked out" in these areas except the Older Americans Act, there are going to be the pressures you spoke of.

Second, there is a larger problem that I see cropping up. The retirement portions of social security, medicare, and the Older Americans Act have remained relatively unscathed to this point in the budget process. There are, however, at least anecdotal problems about people saying, "Well, if this administration is concerned about the social safety net, and so forth, there are some people out there who are receiving large amounts of Federal benefits, and why are they not being hit proportionately?"

And I do not want to comment on how the larger social security kind of issue may play out, but I think at the local State level under the Older Americans Act, there are going to be some very strong pressures, based on those feelings.

Senator HEINZ. I would like to address the subject I have been discussing with Mr. McCormick, which is the authority of the Commissioner of the Administration on Aging. As you are well

aware, I expect, it was the intent of Congress when it authorized the Older Americans Act that the older population would be meaningfully represented in the upper echelons of the Federa! Government, unquote.

Do you believe that we need to do anything to give the Commissioner any additional necessary clout to impact on all the other agencies that we expect him to be dealing with? Will he be allowed to create a new Cabinet department?

Dr. HUDSON. Well, oddly, it is not quite as facetious as one might think, given that the States, are able, in some cases, to do better because they have been able to do that. I have followed this debate concerning the Commissioner on Aging for 10 years now, and it seems to be an interesting barometer of the relative standing of the executive and legislative branches, just to look at where the Commissioner finds himself in any given year.

I have no magic answer. I would just say that the bad news is that in an enormous Federal structure, a Commissioner charged with what is seen in the executive branch as a largely clientele, constituency-oriented, non-means-tested, "soft" policy is going to have a lot of trouble moving and shaking people who are running what are seen as larger, more functional and "harder" policies, if you will. And that is a structural and systemic problem that I do not think something like elevating into and out of different offices is going to do a great deal about.

I would say that the good news, if I could put it like that, is that in Washington, there are just so many other groups, public and private, that are concerned with advocating for the elderly that the fact that any Commissioner finds himself in a difficult position is not as serious as it might otherwise be—and I am not trying to cop out; it is just a fact of life. I think this committee and the number of national organizations that are prominently placed and staffed in Washington serve that role in some regard.

What is interesting at the State and area level is that Older Americans Act programs are much closer to the executive branch at those levels than they are in Washington. I think in Washington this legislation historically has been congressional legislation, if you understand my meaning there. Yet, in the States, where you have State departments on aging, and people fairly well-placed and interested in seeing those programs actually implemented, the aging agencies probably get stronger executive support than they do here.

Senator HEINZ. Well, can the Commissioner, as the AoA is currently constituted—and I include in that the question of authority, funding, staffing, and so forth—can he carry out the function that Congress has mandated, namely that he be a focal point for Government concerns for the elderly?

Dr. HUDSON. In the literal meaning of that, probably not. I think an active, capable Commissioner with a core of motivated staff people, many of whom I think are probably onboard already, can do a lot of things that a less highly charged agency is able to accomplish. I think the relevant portions of the statute as I understand it, are as global and as encompassing as one could reasonably expect.

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I think the answer, if there is one, lies in staffing and leadership and somebody who can, through the mobilization of knowledge and data and the dint of his own personality, go to the other departments and organizations in Washington and make it clear that there are real needs out there. Furthermore, addressing many of those needs can be the direct or indirect responsibility of the Administration on Aging because an active Commissioner is there and he has some people who know what they are doing. I think that is probably, in the near-term sense, what we should strive to get, and I would hope it would work.

Senator HEINZ. Mr. McCormick, in your report, you indicated that you really did not study the issue of the extent to which the delegation of authority which you found, the unwarranted delegation, impacted adversely or not, the functions of the Commissioner on Aging. Is that correct?

Mr. MCCORMICK. We did limited work on that, to the extent that people identified problems. We followed through to see if they had any substance.

Senator HEINZ. So, even though you noted in your report [1] that OHDS "considers itself understaffed"—page 2—and second, that, "There is no evidence that the efficiency and effectiveness of OHDS has improved since the reorganization"—page 7—even though you made those notes, you did not discover any data that indicates that the understaffing and added level of bureaucracy hamper in any way the AoA in attempting to process its contracts and grants and fiscal management of grants?

Mr. MCCORMICK. We tried to qualify that in the report to say that we only did limited work. From that limited work——

Senator HEINZ. I did note that, but you made some findings.

Mr. MCCORMICK. We did not find any adverse effects from the present structure or the violations in the limited work that we did. I might add that one could expect the reorganization studies the department made in reaching the conclusion that they should reorganize, would include considerations on these particular subjects. They were unfortunately, meager in such details.

Senator HEINZ. Well, when somebody finds that an organization charged with administering the functions of another organization is understaffed and that there is no evidence that the administering, supervising organization, as a result of reorganization, has improved, there would be an implication that that certainly does not help the so-called subsidiary organization that is being supervised—in this case, AoA by OHDS.

Mr. MCCORMICK. I do not quite understand the question.

Senator HEINZ. Well, you are saying that OHDS is understaffed. They have taken over some of the authority of the AoA, and it is a reasonable implication that when somebody who is not fully staffed to do a job tries to do somebody else's job, that they are not going to perform terribly well.

Mr. MCCORMICK. Well, first off, they consider themselves understaffed. In trying to look at the staffing, both of the AoA and OHDS, neither has an adequate work force measurement system on which one could really make an adequate judgment.

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[1] See page 97.

Senator HEINZ. So your answer is that they are both understaffed, or they both consider themselves understaffed?

Mr. MCCORMICK. They both consider themselves understaffed.

Senator HEINZ. You do not know whether they are understaffed or not.

Mr. MCCORMICK. They do not have the data to show whether they, in fact, are accomplishing their work with the most effective use of resources or not.

Senator HEINZ. I think what you have provided us with is quite helpful, but given what you found, namely, a discrepancy in the way the law is being observed, it seems to me it would be a good idea for GAO to provide us with a formal statement and addendum to your report as to the legal consequences of that, along the lines of our discussion. Obviously, when someone is doing something that is not in conformance with the law, there are certain problems or risks inherent in that. As Mr. Lupton indicated, you had not specifically set out to examine this issue, but I think you should, and I hope you will.

Mr. MCCORMICK. Yes, we will provide that for the record.

Senator HEINZ. All right.

[Subsequent to the hearing, Mr. McCormick submitted the following information:]

Question. Could any of AoA's grants or contracts be challenged as invalid because the grant and contract officers are not directly responsible to the Commissioner of AoA?

Answer. Although AoA grants and contracts executed by officers not responsible to the Commissioner could be challenged as invalid, we do not believe a challenger would be successful. First, the grant and contract officers had authority to execute grant and contract instruments on behalf of the Government by virtue of authority delegated, we believe these grants and contracts executed by the officers were legally valid.

Second, even if a challenger could successfully argue that such instruments were invalid inasmuch as the grant and contract officers were not directly responsible to the Commissioner of AoA, and therefore lacked authority to execute grants and contracts on behalf of AoA, the grants and contracts were in fact ratified by the Commissioner of AoA. Under the procedures employed by the grants and contract officers, the Commissioner was always informed and acquiesced in their actions on his behalf, which amounted to ratification of the grants and contracts.

Execution of otherwise proper grants and contracts made by individuals without authority, or by such offices in excess of the limit of their delegated authority, may be later ratified. Ratification may be made by the official on whose behalf the grant or contract was made. See B-183878, June 20, 1975; B-183915, June 25, 1975; B-188454, January 15, 1979.

Senator HEINZ. Dr. Hudson, Mr. McCormick, are there any other comments you care to make?

If not, thank you very much. You have been extremely helpful.

Our next witnesses are Gorham Black, Ray Scott, and Frank Casula.

Let me say it is a pleasure to have Gorham Black, who is in charge of all things good and beautiful as they affect a lot of people in the State of Pennsylvania. He is the secretary of our Department on Aging.

Gorham, it is somewhat chauvinistic of me, but I would like to ask you to be the leadoff witness in this panel. We welcome you again.

STATEMENT OF GORHAM L. BLACK, JR., SECRETARY, PENNSYLVANIA DEPARTMENT OF AGING, ACCOMPANIED BY GLEN DUNBAR, BUREAU DIRECTOR, POLICY PLANNING AND MONITORING

Mr. BLACK. Thank you very much, Mr. Chairman.

It is my pleasure to present this testimony before the distinguished senior Senator of the Keystone State. I have with me Glen Dunbar, bureau director in the Department of Aging for Policy Planning and Monitoring. And I hope I have with me a couple of your staff people who are proteges of ours, too—Dr. Skinner and Mr. Rodgers. We are delighted to see them.

Senator HEINZ. How are you getting on without them—all right?

Mr. BLACK. I will tell you a little later. That will be off the record.

The recommendations which I will present will represent excerpts from my prepared testimony which is on record with the staff, and which I hope will be entered into the record in its totality.

Senator HEINZ. Without objection.[1]

Mr. BLACK. The recommendations are tempered by Pennsylvania's 15 years of experience in striving to realize the promise contained in the Older Americans Act of 1965, by our keen awareness of the pressing needs of the elderly of this society, and by the sobering realization that State and local communities must accept greater responsibility for the operation of aging programs.

With regard to the reauthorization of the act, we recommend a 3-year extension, making only those changes which are widely supported. The current legislation provides us with a satisfactory framework, and we do not advocate for change simply for the sake of change.

However, if changes are to be made, we would recommend the following: The organizational place of the Administration on Aging should be elevated. The head of that agency needs to have direct access to the Secretary of Health and Human Services so that we can avoid the type of disruptions which occurred following passage of the 1978 Amendments to the Older Americans Act.

The current title III-B program should be the foundation for the development of a comprehensive community-based services development and advocacy grant to the States. This can be accomplished by fully consolidating titles III-B and III-C. Within broad Federal guidelines, States should be free to utilize funding through such a consolidated grant in a manner that they deem maximally responsive to the needs of their older citizens.

We further recommend that under the new, consolidated title III program, the present 50-percent spending requirement for priority services be eliminated. The aging services network has passed through its period of initial growth and development and has now attained a position of competency. It is apparent to us that State units and area agencies now have the requisite experience and capability to accurately define services within their own jurisdiction which may still require the targeting of scarce resources. In our opinion, continued reliance upon federally imposed service pri-

[1] See page 34.

orities is no longer necessary and may indeed be hindering the development of a services system which is truly responsive to the needs of older citizens at the local level.

To make better use of available resources, we believe that States should have the option of establishing sliding fee schedules reasonably related to recipient income. Such an option would enable States to maximize their resources and afford greater numbers of older persons the opportunity to participate in programs established by the Older Americans Act. We believe that all persons over 60 years of age and their spouses should be eligible for title III services. However, the current policy of providing free services regardless of income has created unrealistic expectations which cannot be met. We need to ask if our responsibility is to provide a comprehensive service delivery system to all without cost; or to provide a comprehensive system that all have access to, with funding for those unable to purchase the needed services.

Statutory changes should be considered to strengthen the role of State units on aging and area agencies on aging in insuring that title IV discretionary projects are responsive to network needs. This can be accomplished by establishing the training portion of the current IV-A program as a statutory State formula grant program and requiring State and area agency input to the development of annual plans and strategies for discretionary training, research, and model project activities. In addition, statutory language should be added to insure that discretionary funding is utilized only for projects which have direct relevance to the needs of the aging network.

We are aware of the tight fiscal constraints which are currently facing our Nation. Moreover, we are also aware that existing financial resources are far from adequate. We therefore believe that attention should be given to creating partnerships between the private and public sectors. The primary basis of private/public partnerships is commonality of problems to both sectors. Problems which affect the community often affect the private sector and its ability to do business. Corporations often rely on Government to solve problems. It is up to both Government and the private sector to work jointly to solve their mutual problems.

The Pennsylvania Department of Aging has been studying the possibility of promoting such relationships, and we have identified seven areas in which various corporations have already become involved in elderly programs. These are: Income-oriented programs, such as discount programs, employment, pensions, educational programs, recreation, loaned executives, volunteers, health care, and direct grant support.

Some corporations are also beginning to perceive the growing significance of the elderly as a vast new market for specially designed products to enhance mobility and meet the particular preferences and interests of older persons.

These efforts should be encouraged, and research and demonstration funds should be utilized to expand and refine these concepts.

We have also given thought to possible revisions in title V of the act and believe that this title, perhaps more than any of the others, should be targeted for significant revision pending the findings of the 1981 White House Conference on Aging. The current program

might be improved if authority for its administration were transferred from the Department of Labor to the Administration on Aging. It is clear to us that the Department of Labor really does not understand the aging network of services and has complicated our duties at the State level by imposing reporting and administrative procedures which do not mesh well with our other Older Americans Act requirements. In addition, confusion and conflict sometimes occur at the local level, due to the fact that title V funding is channeled into communities through both national contract organizations and State units on aging.

However, these are relatively small problems and our relationship with national contractors within Pennsylvania is largely one of mutual cooperation. The real problem is that the title V program treats only the symptoms of unemployment rather than its cause. The title V program creates community service jobs for low income older persons who would otherwise be unemployed. This is laudable. However, it does little to impact upon private sector employment, and much more serious actions must be taken if we are to provide all older persons with the opportunity to work.

Before the problem is solved, we must first put an end to age discrimination and change the basic perceptions that employers have about older workers. In addition, many older persons simply do not wish to work in a traditional job setting, and employers must be convinced of the desirability of alternative approaches, such as job sharing, flextime, and job restructuring, to provide more part-time employment.

Disincentives must also be removed from the Social Security Act and various benefit programs so that older people can advance their economic position by working rather than just trade their paycheck for a loss in benefit support.

In addition, alternatives must be found to traditional prehiring testing procedures such as those used for most civil service jobs. These paper tests tend to work against the hiring of the elderly and do not accurately predict on-the-job performance.

The long-range future well-being of the elderly depends upon our ability to create a secure economic environment, and we believe that this can best be achieved through the provision of employment opportunities for all Americans who are willing and able to work.

The current title V program is making a modest contribution toward this end, and therefore we advocate for its extension during this next 3-year period with only minor changes. However, we are also recommending that serious thought be given to the topic of elderly employment during the coming years and that we prepare ourselves to make substantive changes in this regard when the act comes up for renewal in 1984.

In conclusion, I wish again to thank Senator Heinz and the members of the Senate Special Committee on Aging for allowing me to present our recommendations for the reauthorization of the Older Americans Act. We have accomplished much within the last 15 years, but clearly, our task is yet unfinished. To that end, I pledge the full and enthusiastic cooperation of the Pennsylvania Department of Aging.

Thank you for your courtesy and attention.

Senator HEINZ. Thank you, Secretary Black.

[The prepared statement of Mr. Black follows:]

PREPARED STATEMENT OF GORHAM L. BLACK, JR.

I am Gorham L. Black, Jr., secretary of the Pennsylvania Department of Aging. I wish to thank Senator Heinz and the other members of the Senate Special Committee on Aging for extending to us the invitation to present testimony concerning the reauthorization of the Older Americans Act.

The recommendations which I will present are tempered by Pennsylvania's 15 years of experience in striving to realize the promise contained in the Older Americans Act of 1965, by our keen awareness of the pressing needs of the elderly of this society, and by the sobering realization that State and local communities should accept greater responsibility for the operation of aging programs.

With regard to the reauthorization of the act, we recommend a 3-year extension, making only those changes which are widely supported. The current legislation provides us with a satisfactory framework, and we do not advocate for change simply for the sake of change. Two additional strategic considerations argue for a 3-year extension, making only widely supported changes.

First, it would clearly be counterproductive to make major changes in the act now, without considering the recommendations of the 1981 White House Conference on Aging. These recommendations should be given serious consideration over the next few years so that older persons will truly have had a voice in determining the future direction of the national aging network.

Second, now is not the time to risk making changes which could possibly disrupt the ability of States and area agencies to effectively administer the act. The aging network suffered greatly during the protracted time period that it took for the development of regulations to implement the 1978 amendments to the act. We cannot afford to experience a similar period of uncertainty and indecision following the 1981 reauthorization. If block grant financing is to be implemented in a wide variety of program areas during the next several years, then it is especially important that during this period the elderly make use of the full potential of the organizational structure which has been established under the Older Americans Act. We are fully supportive of the broader advocacy and service responsibilities which have been given to State and area agencies on aging with each successive reauthorization of the Older Americans Act and believe that this decentralization represents a model for what is being proposed for future Federal-State-local relationships in other areas.

However, the evolution of the aging structure has occurred slowly, and while we would hope to eventually be able to say that we live in an age-irrelevant society, we know that this is not the current reality. At the present time there is wide acknowledgment of the severity of need among the elderly. However, proposals to meet those needs still tend to be viewed as being of lesser significance than the fulfillment of the needs of younger age groups. In order to receive fair consideration, the elderly need the type of distinct representation which is afforded through the Older Americans Act. Keeping this perspective in mind, we feel strongly that it is important to have consensus support for any changes which are made to the act. However, if changes are to be made, we would recommend the following:

The organizational placement of the Administration on Aging should be elevated. The head of that agency needs to have direct access to the Secretary of Health and Human Services so that we can avoid the type of disruptions which occurred following passage of the 1978 amendments to the Older Americans Act.

The current title III-B program should be the foundation for the development of a comprehensive community-based services development and advocacy grant to the States. This can be accomplished by fully consolidating titles III-B and III-C. Within broad Federal guidelines, States should be free to utilize funding through such a consolidated grant in a manner that they deem maximally responsive to the needs of their older citizens.

We further recommend that, under the new, consolidated title III program, the present 50 percent spending requirement for priority services be eliminated. The aging services network has passed through its period of initial growth and development and has now attained a position of competency. It is apparent to us the State units and area agencies now have the requisite experience and capability to accurately define services within their own jurisdiction which may still require the targeting of scarce resources. In our opinion, continued reliance upon federally imposed service priorities is no longer necessary and may indeed be hindering the development of a services system which is truly responsive to the needs of older citizens at the local level.

We also believe that greater flexibility should be given to States for the operation of ombudsman programs serving older residents of long-term care facilities. The current act, at least as interpreted through the implementing regulations, has established detailed specifications which divert attention from accomplishing basic program goals, and has caused State and area agencies to become unduly preoccupied with matters of regulatory compliance.

To make better use of available resources, we believe that States should have the option of establishing sliding fee schedules reasonably related to recipient income. Such an option would enable States to maximize their resources and afford greater numbers of older persons the opportunity to participate in programs established by the Older Americans Act. We believe that all persons over 60 years of age and their spouses should be eligible for title III services. However, the current policy of providing free services regardless of income has created unrealistic expectations which cannot be met. We need to ask if our responsibility is to provide a comprehensive service delivery system to all without cost; or to provide a comprehensive system that all have access to, with funding for those unable to purchase the needed services.

Statutory changes should be considered to strengthen the role of State units on aging and area agencies on aging in insuring that title IV discretionary projects are responsive to network needs. This can be accomplished by establishing the training portion of the current IV-A program as a statutory State formula grant program and requiring State and area agency input to the development of annual plans and strategies for discretionary training, research, and model project activities. In addition, statutory language should be added to insure that discretionary funding is utilized only for projects which have direct relevance to the needs of the aging network.

We are aware of the tight fiscal constraints which are currently facing our Nation. However, we are also aware that existing financial resources are far from adequate. We, therefore, believe that attention should be given to creating partnerships between the private and public sectors. The primary basis of private/public partnerships is commonality of problems to both sectors. Problems which affect the community often affect the private sector and its ability to do business. Corporations often rely on Government to solve problems. It is up to both Government and the private sector to work jointly to solve their mutual problems.

The Pennsylvania Department of Aging has been studying the possibility of promoting such relationships, and we have identified seven areas in which various corporations have already become involved in elderly programs. These are:

Income-oriented programs such as discount programs, employment, pensions, etc.
Educational programs.
Recreation.
Loaned executives.
Volunteers.
Health care.
Direct grant support.

Some corporations are also beginning to perceive the growing significance of the elderly as a vast new market for specially designed products to enhance mobility and meet the particular preferences and interests of older persons.

These efforts should be encouraged, and research and demonstration funds should be utilized to expand and refine these concepts.

We have also given thought to possible revisions in title V of the act and believe that this title, perhaps more than any of the others, should be targeted for significant revision pending the findings of the 1981 White House Conference on Aging. The current program might be improved if authority for its administration were transferred from the Department of Labor to the Administration on Aging. It is clear to us that the Department of Labor really does not understand the aging network of services and has complicated our duties at the State level by imposing reporting and administrative procedures which do not mesh well with our other Older Americans Act requirements. In addition, confusion and conflicts sometimes occur at the local level due to the fact that title V funding is channeled into communities through both national contract organizations and State units on aging.

However, these are relatively small problems, and our relationship with national contractors within Pennsylvania is largely one of mutual cooperation. The real problem is that the title V program treats only the symptoms of unemployment rather than its cause. The title V program creates community service jobs for low-income older persons who would otherwise be unemployed—and this is laudable. However, it does little to impact upon private sector employment, and much more serious action must be taken if we are to provide all older persons with the opportunity to work.

Before the problem is solved, we must first put an end to age discrimination and change the basic perceptions that employers have about older workers. In addition,

many older persons simply do not wish to work in a traditional job setting, and employers must be convinced of the desirability of alternative approaches such as job sharing, flextime, and job restructuring to provide more part-time employment. Disincentives must also be removed from the Social Security Act and various benefit programs so that older people can advance their economic position by working rather than just trade their paycheck for a loss in benefit support. In addition, alternatives must be found to traditional prehiring testing procedures such as those used for most civil service jobs. These paper tests tend to work against the hiring of the elderly and do not accurately predict on-the-job performance.

The long-range future well-being of the elderly depends upon our ability to create a secure economic environment, and we believe that this can best be achieved through the provision of employment opportunities for all Americans who are willing and able to work. The current title V program is making a modest contribution toward this end, and therefore we advocate for its extension during this next 3-year period with only minor changes. However, we also recommend that serious thought be given to the topic of elderly employment during the coming years and that we prepare ourselves to make substantive changes in this regard when the act comes up for renewal in 1984.

With regard to another matter of vital interest, we recommend that serious consideration be given to strengthening the enforcement of the Age Discrimination Act. A study released by the Civil Rights Commission in 1977, which resulted in the reauthorization of the Age Discrimination Act in 1978, demonstrated unequivocally that public service and benefit programs have discriminated against older persons. If State units on aging and area agencies are ever to fully accomplish their mandate—the development of comprehensive and coordinated community-based health and social services systems for older persons which foster independent living—they will need to exercise their responsibilities to plan, coordinate, and pool resources within a social environment which is free from the insidious effects of age discrimination.

In conclusion, I wish again to thank Senator Heinz and the members of the Senate Special Committee on Aging for allowing me to present our recommendations for the reauthorization of the Older Americans Act. We have accomplished much within the last 15 years, but clearly, our task is yet unfinished. To that end, I pledge the full and enthusiastic cooperation of the Pennsylvania Department of Aging.

Thank you for your courtesy and attention.

Senator HEINZ. Mr. Casula, would you please be our next witness?

STATEMENT OF FRANK P. CASULA, COUNCILMAN, PRINCE GEORGES COUNTY, MD., IN BEHALF OF THE NATIONAL ASSOCIATION OF COUNTIES

Mr. CASULA. Thank you, Mr. Chairman.

Mr. Chairman, I am Frank Casula, a member of the Prince Georges County Council, of the State of Maryland. I am also chairman of the Council's Human Resources Committee.

I am here today to give you a county-level perspective on the Older Americans Act. For that purpose, I would like to submit for the record 10 recommendations that have been developed by the National Association of County Aging programs.[1] We believe these recommendations will improve the ability of county governments to serve their elderly constituents.

Of those 10 suggestions, I would only like to make a few observations on only two.

First, county-elected officials hope you understand the need to increase public sector participation in decisions made by private area agencies on aging. While some private area agencies have ideal working relationships with county officials, a few continue to work at cross-purposes with county government. This situation

[1] See appendix 2, item 1, page 123.

needs to be corrected, and we believe that our recommendation to appoint one elected official—or his or her designee—to the policy-making board of private AAA's is a reasonable and minimal request.

Second, I want to emphasize the need to create some mechanism in the act which will permit funding to respond to the growing numbers of elderly people, and the increasing cost of food for nutrition services. Congress has always assured that inflation does not erode nutrition programs under title VII or title III-C. We think that such a commitment must be maintained.

Let me now turn to the related questions of considerable concern to counties: What would be the effect of the administration's proposals to cap medicaid and create block grants on services funded under the Older Americans Act? Can the act be changed to help alleviate any negative effect?

NACo has supported the concept of block grants for social and health services for approximately 10 years. We continue to do so today. In addition, we support the administration's efforts to balance the Federal budget. However, we are concerned that cutbacks in funding of 25 percent is too much. We do not believe such amounts can be saved through increased administrative efficiency. We believe that services will have to be reduced if such sizable cuts are made.

How would these reductions affect county aging offices and the services they provide?

The answer to that question, as I am sure you are aware, Senator, is very difficult. Neither Congress nor the State legislatures have determined what we, at the local level, can expect. I can, however, offer you a probable sketch from the county level.

The reductions are likely to affect the elderly and younger populations about equally, according to a quick survey that was made of county welfare and human service directors.

The most affected young will be the working poor. The most affected elderly person, as described by a Baltimore County official, can be characterized as "a marginally functional, low-income, 75-year-old person, who lives alone."

Such an elderly person would be hurt by the loss of title XX services, food stamps, low-income energy assistance and, in some cases, loss of eligibility for medicaid. No generalizations can be made about which loss would be most serious. Conditions vary too much. Even in northern counties, some elderly persons found loss of food stamps a larger threat than loss of energy assistance.

As a colleague of mine recently testified before this committee, counties are most concerned about persons who lose several services. In order to illustrate this point, I present the case of the Abel family.

Mr. Abel is from Montgomery County, Ohio. He is 76 years old. He was married when he was 46 and his wife was 33 years old. They now have four children at home, ages 14 to 19. He has been blind for over 10 years, and receives social security for himself, his wife, and the two youngest children. His wife is mentally ill and unable to work. The two older children have been attending school and working part-time at minimum wage labor. The majority of

the family's income is devised from social security benefits. The total income has not been sufficient to meet their needs.

The Abels own their home, but because of misunderstandings, fiscal mismanagement, and Mr. and Mrs. Abel's disabilities, they fell behind in making mortgage payments and now face foreclosure.

Mr. Abel had not applied for food stamps or other assistance because of his reluctance to be "on welfare." He finally sought assistance from the county adult protective services program, which is funded primarily by title XX of the Social Security Act.

The majority of the services Mr. Abel's family is now receiving are federally supported. These include: social security benefits, the major source of his income; adult protective services; title XX, Social Security Act; counseling to alleviate problems; financial counseling and assistance; advocacy and referral; transportation; groceries obtained through a senior citizen outreach program; social services under title III-B, Older Americans Act; legal aid society, to contest foreclosure on home and establish a new repayment program; food stamps; home energy assistance program, which prevented the disconnection of utilities; health and dental care at a hospital clinic for the children; and counseling from the local community mental health center for Mrs. Abel.

All of these services, with the exception of mental health, were arranged with the assistance of the county adult protective services program, which is available through the county welfare department.

Protective services has served as an advocate for the client with the other agencies involved, and with the client's mortgage company. Without these services and those of the county legal aid society, the family would have been forced to move out of their home and into public housing, most likely separating the two older children from the rest.

The food and food stamps have freed more of their income for use in buying clothing, and paying for transportation, utility bills, mortgage payments, property taxes, and so forth. The home energy assistance program provides them with funds to update payments on their gas bill, which had increased during the winter months beyond their ability to pay; this prevented utility services from their impending disconnection.

The most important result of these services is that Mr. Abel's family is able to remain together in their own home, and have not become totally dependent upon Government assistance. With the financial counseling Mr. Abel has received from adult protective services and legal aid, he has corrected past spending patterns, and over the next few months should remedy all debts and become independent of the need for advice and counseling.

At that time, the county title III-B social services program, operated as an outreach of the area senior citizens' center, will be available to answer questions Mr. Abel has, and to help him cope with new problems as they arise. Protective services and the legal aid society should no longer be required.

Senator HEINZ. Mr. Casula, I cannot resist saying that this is a very unusual gentleman. Not only does he get married at age 46, but he waited 11 years to have his first child.

Mr. CASULA. There you go.

Sentor HEINZ. In every other respect, of course, I find him quite normal. [Laughter.]

Mr. CASULA. Thank you. I made my point.

The first area to feel the pressure of reductions will be nursing homes. The county office of aging, by consensus, will feel pressures only after the demand for nursing home beds has made bed accessibility impossible.

In addition to that, Mr. Chairman, I would like to point out that in the State of Maryland, there is—as I am sure, throughout the country—a shortage of nursing home beds. And some of the hospitals in my own county are retaining senior citizens in hospital beds until vacancies are available through the nursing homes.

Can county aging offices, funded largely by the Older Americans Act, fill in when these other funds are no longer available? The universal answer from our county elected officials and adminstrative staff is "No." The no is especially vehement if we are talking about substituting for medicaid.

County offices will nevertheless respond to the cutbacks and attempt to cope with the problem. Such reactions will fall into two categories. First, those offices which rely heavily on title XX funds, such as in Pennsylvania, will have to reduce services substantially. The Allegheny County Department of Adult Services, for example, relies on title XX for almost $2 million worth of services such as protective services, homemaker, home health aide programs, and domiciliary care. Other offices that do not rely on title XX very much will have to rearrange their services by eliminating programs such as preventive services activities, physical therapy classes, senior centers, legal services, and even some day care.

I might add, Mr. Chairman, that this past Thursday I had the privilege of visiting a senior citizens' center, and there was a discussion of the number of programs that can be made available to the seniors. And I guess of all the programs—ceramics, sewing, and whatever you have—an 89-year-old lady got up and said, "You know what I would like to have is a physical exercise program." And I will tell you, she was very sharp.

Second, there will be a geographic reduction, as in Los Angeles County. Cities and towns with the largest numbers of elderly poor will demand a greater percentage of Older Americans Act funds to help with reductions in other services. Consequently, the elderly poor who live scattered throughout other towns will be left without any services. Current language in the act about targeting for "greatest economic and social needs" is bound to assist such geographic reductions.

Administrative reductions are unlikely. As a county official in Louisiana put it, "I have already had to strip my administration to the bone to offset the lack of funding increases in the past several years."

Changes in service structure to accommodate the new conditions will require anywhere from several weeks to 3 years to accomplish. This will involve a reprioritization of services in community meetings, and renegotiation of contracts, which in most counties is a process that will involve years of work.

From this overview, I hope you can understand why NACo believes that counties must have the maximum flexibility possible to make the necessary adjustments in each individual community.

NACo urges this committee to see to it that all possible flexibility is built into the Older Americans Act. The administration's proposal to consolidate title III is a large step in the right direction. We believe that the committee should strongly resist any efforts to dilute local level flexibility. The act has funded area agencies on aging to plan.

Let us give them the chance to do just that.

Thank you, Mr. Chairman.

Senator HEINZ. Mr. Casula, thank you very much.

Mr. Scott, our mutual good friend, Senator Pryor, who was responsible, as I suspect you are not only well aware, but deeply involved with, all of the prebirth planning of the House Committee on Aging when he and I served there together, wanted to be here to introduce you. He has great respect for you, and I understand you worked with him when he was in the House, and then when he was Governor, and now you have decided to return to Arkansas to stay in Arkansas. Of course, Senator Pryor has to divide his time. I know he would like to be here, but he is in a markup, and he cannot be here. So on his behalf, let me take special note of his, as well as your accomplishments with him in the area of the aging.

STATEMENT OF RAY SCOTT, LITTLE ROCK, ARK., DIRECTOR, DEPARTMENT OF HEALTH AND HUMAN SERVICES, STATE OF ARKANSAS

Mr. SCOTT. Thank you very much, Senator.

In view of the grilling that Mr. Rust got by identifying himself as a former Hill staffer, I was hesitant to tell you that I did work for Senator Pryor as administrative assistant on the Senate side for the past 2 years. As a matter of fact, I just left about 4 months ago and this is my first opportunity to come back, so I appreciate this opportunity.

For the sake of time, I would like to submit my statement for the record.

Senator HEINZ. Without objection, your entire statement will be made a part of the record.[1]

Mr. SCOTT. I will just make a few comments, if I might.

The first thing, Senator Heinz, in my prepared statement, I use a word that you used, because I do think it is indicative of some of my comments, and that is that I do not feel the Older Americans Act in the reauthorization process is in need of a major overhaul. Perhaps some fine tuning here and there, and it is in this spirit that I offer some of my comments and recommendations.

The first point I would like to make is that as a former State director on aging that started under the 1973 amendments and have followed the progress and the trials and tribulations of AoA over the years, I find the testimony this morning to be a refreshing breath of air. I think that the kinds of comments that Mr. Rust and Mr. Handelsman made this morning make ultimate good sense to me from the perspective that I represent in State government.

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[1] See page 43.

I guess I should clarify that very quickly. I am presently the director of the Arkansas Department of Human Services, which represents what is commonly known as the umbrella agency in the State. Of course, aging is one of the programs under that umbrella.

Senator HEINZ. You are the equivalent of OHDS. [Laughter.]

Mr. SCOTT. I guess I hate to admit that, but you are correct.

Senator HEINZ. Your instincts about coming back here were right.

Mr. SCOTT. I do have a wide variety of human services programs under my responsibility, running the gamut from title XX, medicaid, mental retardation, mental health, rehabilitation, and juvenile delinquency.

Senator HEINZ. No apology is necessary. [Laughter.]

Mr. SCOTT. Other than that, I do not have anything to do. [Laughter.]

I guess the first comment I would make, in regard to the consolidation, again, from my perspective in trying to run a State program which includes aging, and from the kinds of things that we have done in Arkansas' aging program, I think that makes, again, ultimate good sense to us.

I had one local aging provider, give me an example that for a $12 expenditure for postage under the present regulations, as our State and the Federal level has interpreted it to them, it would require six separate journal entries for accounting purposes. And that was just for a very minimal postal expenditure.

So I guess if you wanted to argue it on the basis of cost savings from administrative and accounting procedures alone, it would make good sense.

Coupled with that, though, I think the elimination of the priority service designation is again in keeping with the original concept, at least as I understood the 1973 amendments, in terms of what the role of the State and area agencies on aging were to be. That is, they were to be the ones to identify, from their perspectives, what they felt the priority needs in their areas were.

I now find it refreshing that we are—at least, hopefully, if Congress concurs with some of the administration's recommendations—going to give that network an opportunity to do what it was created to do, and that is not only to identify but to work diligently to try and meet the needs at the local level as they have perceived them.

I am understandably biased, of course, when it comes to States' authority and States' flexibility. Again, from the perspective that I am speaking from, but I do think that these two recommendations that were made this morning are in the best interests of the program.

There is one dilemma that we are facing in our State, and I suspect we are not unique in this respect. We are beginning to ask ourselves, as I know the question has been asked here, can the Older Americans Act continue to be all things to all older people. We face declining State revenues and decreased tax collections, which are having an effect on the State funds we can allocate to aging, as well as being faced with the prospects of some proposed Federal cuts at this level. We are getting into a kind of classical debate about priorities in terms of who are the most needy. Can we

continue providing meals to those people who can get in their cars and drive from their retirement center and come to the nutrition site and eat, or should we try to establish some type of sliding fee scale, as Mr. Black recommended.

I think it is our perspective that at least the States and local areas having the flexibility to develop fee scales would be necessary in order for us to address this business of competing priorities. It is not an easy question to ask, and I am certainly not here today to propose all the answers. But again, as we face declining resources, I think flexibility and the ability to be creative and innovative, which I think has been a trademark of Arkansas' programs, is a very necessary thing. It is because our programs exist on a wide variety of what I call multiple funding sources. The last figures I saw indicated that the Older Americans Act funds actually account for only about 37 percent of the money that our aging network spends. So needless to say, we rely heavily upon other State and Federal sources of funds. The aging program in Arkansas gets approximately 15½ percent of the State's title XX allocation while our elderly population is about 13½ percent of the State's population. We use title XIX, the medicaid program, to the extent we can, in our in-home care program. So again, this ability to be creative with a wide variety of resources is critical, as far as I am concerned, to the ongoing success of the programs.

It is also for that reason that I would urge this committee to continue to work closely with the Labor and Human Resources Committee and the Finance Committee of the Senate, because the proposed medicaid cap as well as the proposed 25 percent reduction in title XX, could create some serious dilemmas for us at the State level. I am not saying we are not prepared to face those dilemmas, but again, I would hope in this reauthorization process that you would continue to work closely with these committees because of the critical interrelationships that exist between the Older Americans Act funds and these other Federal programs.

I guess in summary, Mr. Chairman, the main point I would like to make today is that, again, if the proposals that were discussed here this morning by the administration representatives are indicative of the attitude that the Administration on Aging is going to take toward States and area agencies on aging, I think it is a refreshing breath of air. I would just state again that I have ultimate faith in the State and area agencies' ability to identify the needs in that area and to work creatively and innovatively to meet them.

Thank you.

Senator HEINZ. Thank you, Mr. Scott.

[The prepared statement of Mr. Scott follows:]

PREPARED STATEMENT OF RAY SCOTT

Mr. Chairman and members of the committee, it is a privilege to appear before you today. The reauthorization of the Older Americans Act is of vital importance to Arkansas and our older Arkansans.

As the director of the Arkansas Department of Human Services, I will administer approximately $600 million in human service programs this fiscal year. My department is an "umbrella" human service agency and is comprised of nine divisions as follows: Social services, developmental disabilities, rehabilitation, mental health, youth services, community services, title XX, alcohol and drug abuse, and aging. While my specific purpose in being here today is to testify on the reauthorization of

the Older Americans Act, I think it is important for you to know that I am speaking from this broader perspective of the entire range of human services in Arkansas.

Second, I think it is important for you to understand some basic demographics about Arkansas. It is a predominantly rural State with a population of approximately 2.3 million. Unless the final tabulations of the 1980 census change the numbers, Arkansas ranks second in the Nation in percent of population that is age 65 or older. In 1980, an estimated 13.4 percent of the States population was over 65 compared to 11.2 percent for the Nation. Arkansas is experiencing the same "graying" of its population as the Nation, however we have grayed at a faster rate. The over-65 population has increased 58 percent in Arkansas from 1960 to 1980, compared to 51 percent for the rest of the country. Poverty in Arkansas is magnified in the elderly population. Almost 45 percent of this group were below poverty in the 1970 census. You can readily see the reason for our keen interest in developing more effective services to meet the growing needs of this population.

The reauthorization of the Older Americans Act is vital to our being able to meet these very complex and diverse needs of our older Arkansans. In discussing the reauthorization today, I will address only a few of the many issues that need much in-depth discussion and debate.

One of the first issues is the question concerning length of reauthorization. I would recommend a 3-year period for reauthorization for two reasons. First, this 3-year reauthorization would offer a period of relative stability in the aging programs as we in the human services arena continue to grapple with the uncertainty of the current economic and political environment. Second, this 3-year period would coincide with the present administration's time frame for the economic recovery program which will directly or indirectly impact on the economic security of our older Americans. The outcome of the program will be pivotal in determining future strategies for meeting the needs of this growing segment of our population.

Of all the issues being considered in the reauthorization process, one of the more positive initiatives is the consolidation of the various funding titles into one comprehensive authority. A true consolidation of titles III-B, III-C-1 and III-C-2 into one title would be a progressive move. The reduced administrative cost of recordkeeping and accounting alone, which frankly add nothing to the service output of our programs, is ample justification for this move.

For example, I had one local aging provider tell me that for a monthly expenditure of $12 for postage, it requires six separate entries to properly allocate this expenditure. Multiplied over a year's time, as many as 72 accounting entries would be required to account for $144 in expenditures. Needless to say, this creates an administrative burden that I find hard to justify.

Coupled with this consolidation should be the elimination of the priority service designations. To be very candid, if the State and area agencies are going to function effectively, they need to have the flexibility to allocate resources to the priority needs as they have identified them. To mandate that certain funds or a percentage of funds be spent on services not seen as priority needs at the local and State levels is certainly not in keeping with the present administration's thinking. In addition, my experience over the years suggests that the area agencies that have been the most successful in meeting the needs in their areas are those that have been innovative in the use of a wide variety of resources. The inclusion of priority service designations infringes upon this creativity in developing services at the local level.

There is another aspect of this priority service designation issue which has greater consequences for the future of the Older Americans Act. Faced with a troubled economy and a declining collection of State taxes, coupled with proposed reductions in a number of Federal human services programs, we in Arkansas are confronted with having to make very difficult decisions. We are reaching the proverbial crossroads in deciding what the priorities should be for spending these fewer dollars. Inevitably, the question of first priorities in spending our aging money arises. Are the frail elderly in need of in-home care a higher priority than the middle-income elderly in need of socialization and companionship to remain active? Should we continue to serve meals to the elderly who drive their own cars from their retirement community or restrict this meal to those "more deserving"? Simply stated, "can the Older Americans Act continue to be all things to all older Americans?" Unfortunately, I don't have the answer to that question but I would like to point out some interesting dilemmas raised by this question.

The subject of means testing, eligibility determination, or sliding fee scales has been debated before. However, in more plentiful economic times, these discussions have been dismissed as being irrelevant. Faced now with increasing demands for services and a declining supply of funds for these services, we are confronted with what I call the "economic paradox of human services." Simply stated, as the economy declines and revenue collections decline, as they are in Arkansas, it seems

that the demands for more services by more people increases, placing an even greater burden on fewer resources. This environment naturally leads to the questions about priorities as I just mentioned. Means testing and sliding fee scales are certainly one way to stretch these fewer resources. however, these entail higher administrative costs which could possibly reduce service dollars.

Again, the need to have flexibility in utilizing a variety of resources in innovative ways is one answer to this hard question of priorities. If there is one trademark that has distinguished the Arkansas aging program as a leader in the Nation, it has been our creative efforts in coordinating various resources to meet the needs of our elderly citizens. Our most recent information indicates that Older Americans Act funds account for only about 37 percent of the total funds administered by our aging programs. The remaining service dollars come from a variety of sources such as title XIX (medicaid), USDA, the commodity food program, State revenues, and title XX funds. In fact, aging received in excess of $4 million in title XX funds which is over 15 percent of Arkansas' title XX allocation and State general revenues account for over 20 percent of the aging networks budget. My point here is twofold. First, with all the debate going on about block grants, I wanted to illustrate that we in Arkansas are already coordinating a variety of resources to concentrate on aging problems. Consequently, I don't see the block grant concept as a threat to the integrity of aging programs. In fact, with the increased flexibility promised in the block grant concept by removing some present regulatory barriers, we could probably do an even better job of coordinating resources. In addition, I see nothing inherent in the block grant concept that would encourage our State to retreat from its present commitment of resources to aging services.

My second point about multiple sources of funds is that the reauthorization of the Older Americans Act cannot and should not take place in a vacuum. The reauthorization process and any corresponding changes in the aging programs must be seen in the overall context of other current congressional deliberations. Specifically, I urge this committee and the Senate Labor and Human Resources Committee to look closely at the critical interrelationship between the Older Americans Act budget, the proposed ceiling on title XIX (medicaid), and the proposed 25 percent cut in title XX funds. These decisions on these issues will also have tremendous impact on the future of our aging services.

One final area which should be addressed is the collection and handling of project income. I know this issue has been somewhat controversial because of some problems experienced in a few States in the way in which they accounted for and disbursed these funds. However, I believe the current act and regulations are too restrictive. Under the current act and regulations program income must be spent in the year in which it is collected. In the case of the nutrition program, it must be spent for meals. Also, under current regulations, the application of such income causes any program income on account at the end of an operating year to displace Federal funding. In other words, the project income would have the effect of generating Federal fund carryover.

It has been the experience of our area agencies that the program participants expect that money to be applied in their specific program or center. Again, under current regulations, this is not the case. The reauthorized act and subsequent regulations should be less restrictive. The collection and safeguarding of project income should be required but the application of this income to any specific expenditure should not be required. In addition, projects should be allowed to accumulate income in interest-bearing accounts for as long as a full year and then be required to apply the income in next year's operations. This approach is much more feasible from an accounting and budgeting viewpoint. Maximum local flexibility in the collection and spending of project income should be assured in the reauthorized Older Americans Act.

In conclusion Mr. Chairman, the State of Arkansas and the Nation have seen much accomplished under the Older Americans Act. It would be my hope that as you deliberate over these issues during the reauthorization process, that you resist any temptations for a major overhaul on a system that may only need some very fine tuning. I believe the concepts which formed the first basic foundation of the Older Americans Act are still valid. Therefore, I would suggest that any changes in the act be designed to make our present system and service delivery network work more effectively by removing those statutory and regulatory constraints which are serving as barriers to the effective delivery of services to our older Americans.

Thank you.

Senator HEINZ. I gather that in general, all three of you gentlemen generally favor, with respect to the Older Americans Act, the direction the administration is going in, which is freeing it up so

that you and the area agencies can have more flexibility in meeting what are perceived to be the local needs. Is that correct, Mr. Casula?

Mr. CASULA. That is correct, sir. But as you know, when these funds are diverted to the State, by the time they get to the local governments, there may be a problem in some of the States. I just want you to be aware of that. I would like to have some type of language in the bill that would indicate a joint effort between the local subdivisions, the counties, versus the States, in funding the various programs at that local area.

Senator HEINZ. Is that something that can be addressed and worked out between the AAA's, or the counties and the State?

Mr. CASULA. I think it could be worked out on the Federal level, rather than leaving it up to the States.

Senator HEINZ. As a member of county government——

Mr. SCOTT. Senator, we should have put him between us. [Laughter.]

Mr. CASULA. Senator, I am giving you that message—and we do not have that problem in the State of Maryland—there are States where you would have that problem.

Senator HEINZ. What are the characteristics of such a State where such a problem might exist?

Mr. CASULA. Well, for instance, in the State government, they may decide that in order to implement the grant program at the State level, they need to increase their staff. So you are talking about administrative costs being taken out of some of those grants. And when it gets down to the local level, you know what that means. They will be eroding funds from the local government in order to support a bureaucracy that never previously existed, but that will under these grant programs.

Senator HEINZ. I can certainly understand that concern.

Would you agree, Mr. Black or Mr. Scott, that that should be a concern?

Mr. BLACK. In Pennsylvania, Senator, we do not have that problem.

Senator HEINZ. Of course not. [Laughter.]

Mr. BLACK. We are extremely careful in our budgeting process to identify through the 49 area agencies and their area plans, sufficient funding, based upon the totality of our funding through both Federal and State sources—82 percent of our funding is Federal—so that no administration or administrative moneys are held back to cause the situation which was described. The administration is actually at the area agency level out of those moneys. So we say that our area agencies are fully funded. As a matter of fact, we did a study not too long ago, which reflected the lowest administrative cost of any agency of our State government, which in our case represented 4 percent.

Senator HEINZ. Mr. Secretary, you are a former Regional Director of HEW, and as such, you saw more than just Pennsylvania. Leaving Pennsylvania aside, are there any grounds to Mr. Casula's fear that you can conceive of?

Mr. BLACK. Depending on the funding apparatus used in the various States, there could be States which would have problems such as have been described.

Senator HEINZ. Mr. Scott, do you wish to comment?

Mr. SCOTT. Well, even though Senator Pryor is not here to exert that pressure, we do not have that problem in Arkansas, either.

Senator HEINZ. It is funny how the first round of answers seems somewhat predictable. [Laughter.]

Thank you.

Let me ask both you and Mr. Black the question I originally asked Mr. Casula which is, is my understanding correct that you basically are in support of what the administration is proposing with respect to the Older Americans Act?

Mr. SCOTT. Yes, sir, that is correct.

Mr. BLACK. And that is correct for us.

Senator HEINZ. I think your testimony reflects that quite clearly.

Mr. Casula has suggested that there be a representative from local government on the local AAA agencies. Is that a good idea or a bad idea?

Secretary Black.

Mr. BLACK. We have, of our 49 area agencies, 11 which are private nonprofit. The other 38 are responsive to county commissioners, and you are quite aware of our form of government in Pennsylvania. So the preponderance of our AAA organizations do come under the direct control of the county commissioners. We have had some counties which would prefer to be represented on the private nonprofit governing body, and where that has been surfaced, I think the local governing body has taken that into account. I cannot say precisely whether there is a county commissioner on each of those 11 private nonprofit agencies, but they do have input, they do meet with the advisory committees or governing bodies of these boards, and certainly, they have been very instrumental in providing funding, either in in-kind services or direct funding, to those private organizations.

Senator HEINZ. Mr. Scott, do you have any comment on that?

Mr. SCOTT. Very quickly, Mr. Chairman, we have eight area agencies on aging in Arkansas, all of which are private nonprofits. As a result of efforts over about the last year, somewhat of a conversion process took place where they all became incorporated as private nonprofits. I think the majority of those do have some form of a designated representative of local government on their boards. I think those who were politically astute in their incorporation process were very quick to recognize the need to continue that very close and good working relationship with local governments.

Mr. BLACK. I would like to add another comment, too, regarding Mr. Casula's suggestion. Our State department of aging works very closely with the Pennsylvania County Commissioners' Association, so whether we are talking about private nonprofit or public, I think the issues affecting the elderly of Pennsylvania transcend the form in which these area agencies are organized, and consequently, our working relationship gives us that input.

Senator HEINZ. Now, Secretary Black and Mr. Scott, both of you have made some comments as to the unrealistic expectation about the Older Americans Act being all things to all people, and I believe you both suggested that some kind of a fee schedule, though not a means test, would be appropriate.

There have been some suggestions that the act address this. How could the act address this without crossing the threshold into means testing?

Mr. SCOTT. I think the first thing that I would not want to see is a specific set of regulations developed which says, "Here is the way you States or you local agencies must go through this process." I do not think we want anything as complicated or as complex as title XX or title XIX eligibility determination. I do not think we necessarily need a standardized national form to use to provide this process—because I think again, what my people in Arkansas are asking for is the flexibility, again, the authority, if you will, to develop what we call the sliding fee scales. And again, we have not put the pencil to it yet, but obviously, if it cannot be done with a minimum of bureaucracy and administrative cost, then it is obviously not going to be a good sense measure to use.

But I do not think we are looking for another set of Federal regulations which says, "If you are going to do this, here is how you must do it."

Senator HEINZ. Well, under current law, section 305(a)(2)(e) reads that the State will provide assurances—I believe it is the State; I do not have the entire citation here—that preference will be given to providing services to older individuals with the greatest economic or social needs, and include proposed methods of carrying out the preference in the State plan.

Now, why can't you do what you want to do under existing law?

Mr. SCOTT. That is a good question, Senator, because it is my understanding that the interpretation has been from the Administration on Aging that that provision does not necessarily mean that you can develop a fee schedule.

Senator HEINZ. It does not necessarily mean, or it does not mean—which one? Or are the signals from HHS, OHDS, AoA, ambiguous?

Mr. SCOTT. Maybe Mr. Black can shed more light on it than I, but the signals we are getting is that it means you cannot develop fee schedules.

Mr. BLACK. That is the same understanding we have, Senator, that they are not allowable under the present regulations, and the interpretation of those regulations.

Senator HEINZ. It strikes me as a pretty ambiguous section of the law. I suppose you could interpret it almost anyway you wanted. If that was a part of a Pennsylvania statute, Mr. Secretary, would you read that if you were writing regulations and you wanted to have a fee schedule; would you read that as prohibiting you from establishing——

Mr. BLACK. Not under Pennsylvania law. [Laughter.]

My colleague here, Mr. Scott, says, "Nor Arkansas."

Mr. CASULA. I will add Maryland to that, too.

Mr. SCOTT. Senator, I think we in the States have a different way of reading laws, perhaps, than they do in Washington.

Senator HEINZ. You prefer the plain English construction.

Mr. SCOTT. Yes, Senator.

Mr. BLACK. What I would like to add, you asked the question of how would we impose those types of sliding fee scales. Although we have given this question some thought, we have not gone any great

distance beyond what Mr. Scott has mentioned. But I think the voluntary, self-imposed declaration, which works to some degree in some of our area agencies, is the first step toward the sliding fee situation. We publish what the cost of a meal is, for example. Those who wish to contribute know what means they have to contribute, and there are those who do a fairly good job about what they consider to be their obligation in contributing to the cost of that meal. And I think that would be the first step.

Senator HEINZ. What would be the desirability of clarifying existing law and saying that that citation I just gave you does not preclude whatever it is you want to do?

Mr. BLACK. It would be very helpful.

Senator HEINZ. What objections do you suppose would be raised to that?

Mr. BLACK. There might be some special interest groups who would see that as approaching a means-tested program, and I think it would be our responsibility as a State agency and through us, as area agency directors, to make it very clear to our elderly that that is not the case; it is one that would make our resources stretch in these days of diminishing resources.

Senator HEINZ. Well, maybe, so as to make it perfectly clear, as laws always do, after having said it does not preclude the development of established criteria, we could say, however, we are not sanctioning a means test, either.

Mr. BLACK. I think that would be a very appropriate insertion.

Senator HEINZ. "Notwithstanding the above, means tests are not included." [Laughter.]

All right. Mr. Black, you have addressed what, to me, is an absolutely fascinating issue, as regards title V, the employment title of the Older Americans Act, and you make a number of very helpful suggestions regarding enforcement, ending age discrimination, trying to convince employers of the desirability of alternative approaches in employment for older citizens, removing some of the disincentives that exist under social security, looking with respect to civil service at some of the prehiring testing procedures.

You indicate that you do not think that now is the time to make a large number of changes in title V, but it does sound like to me that you envisage a very different function for title V than it has now. As it is now, title V is simply an employment program for low-income people who need more income. As you say, it is a very worthy program. But I gather what you are saying is that we should find a way to make the resources in title V—which, of course, means money—to do something a little bit more creative, which is somehow to try and shatter a number of the stereotypes, a number of the habits of employers, so that instead of employers telling their employees at age 55, "You had better get ready for unemployment," employers should be telling themselves:

> I have got a very experienced employee with a lot of wisdom stored up as a result of many years of experience in the field, and how am I going to get the most out of all that experience and wisdom, not just between age 55 and 65, but between age 65 and up.

Is that what you have in mind?

Mr. BLACK. Yes, sir, that is exactly what we have in mind. And at the risk of sounding boastful, I do think that Pennsylvania has

the largest unsubsidized rate of title V employees of any of the States. It approximates about 22 percent of our people who find themselves in unsubsidized employment, which I think should be the objective of this whole program. I think this leads right into my other comment about the public/private partnership, without which our success in achieving this significant rate of unsubsidized employment under title V would not exist.

It also means working very closely with the national sponsors, and we do that on a quarterly meeting basis, so we can identify jointly the State and problems connected with the national sponsors.

So there are a number of new directions we feel the title V program could take. I think, though, one of my comments is that it ought to be under the aegis of the Administration on Aging, as opposed to the Department of Labor, which would give us a better focus on the whole program as it relates to older people.

Senator HEINZ. Without trying to change the basic way in which the moneys are now spent—that is, to essentially community services, public service jobs for senior citizens, whether in the long run, we think that is the best use of those resources or not—what might we do now to try and get State and local area agencies thinking, if you will, more along the lines of Pennsylvania or others who believe that we just have to open up much more in the way of job opportunities for people as they approach what is considered conventional retirement age?

Mr. BLACK. I think the key to doing more in this area is to increase our public awareness through a public information program which could be conducted both at the State and area agency level to make our private employers more aware of what their options could be; working with our labor unions who have evidenced in Pennsylvania an interest in this type of work; in our preretirement counseling sessions that many of our area agencies conduct for local businesses in that area, that also can be a part of a public information program.

Senator HEINZ. Is there any language that we should consider putting in title V to encourage people to do more of this?

Mr. BLACK. I would be very happy to task our staff with drafting some language which we would be happy to enter into the record.

Senator HEINZ. I would appreciate that.

Mr. BLACK. All right, sir.

[Subsequent to the hearing, Mr. Black submitted the following information:]

We believe that the current title V community services employment program can be strengthened by placing increased emphasis upon the authority already contained in sections 502(b)(3) and 502(e) of the act and by rewriting implementing regulations to require States to give emphasis to these sections of the act.

Beyond this, we suggest that section 502 be amended by inserting language which would:

(1) Raise the minimum annual unsubsidized placement requirement to 25 percent of subsidized slots.

(2) Allow or require a certain percentage of title V funds in each subproject to be spent on public information.

(3) Require that at least 10 percent of subsidized enrollees in each subproject be employed as job developers for older workers.

(4) Require or allow a certain percentage of title V resources to be spent to subsidize pre- or post-retirement counseling programs.

(5) Stipulate a "1 year and out" requirement for subsidized placements (excepting job developers); and

(6) Allow for demonstration programs involving partnerships with private sector profitmaking employers. A higher unsubsidized placement rate (e.g., 35 percent) could be required for these employers.

Senator HEINZ. I note that Senator Chiles is here.

Senator, do you have an opening statement, or any questions you would care to ask?

Senator CHILES. Mr. Chairman, I would just put my prepared statement in the record, if I might.

Senator HEINZ. Without objection.

[The prepared statement of Senator Chiles follows:]

PREPARED STATEMENT OF SENATOR LAWTON CHILES

Good morning. Mr. Chairman, I would like to thank you for scheduling this hearing on reauthorization of the Older Americans Act and for providing this opportunity for the Special Committee on Aging to reaffirm its longstanding commitment to the older citizens of our Nation.

The legislation which will serve as the focus of our discussion today was first enacted 15 years ago. During the ensuing years, Congress has on eight occasions amended this legislation. Some of the amendments have been technical in nature; others have expanded or redirected the programs funded by the Older Americans Act.

The most notable amendments were in 1972 when the nutrition program was authorized, and in 1978 when the service programs were restructured by consolidating the separate social services, senior centers, and nutrition services into one service title.

When Congress made the significant changes in the delivery of social services in 1978, a 2-year transition period was provided whereby States could make gradual changes—changes which would not disrupt services to older persons. As a result of this transition period, all provisions of the 1978 amendments were not implemented until October 1, 1980, only 7 months ago.

While I am very pleased to be here today to take part in a hearing addressing the reauthorization of appropriations for Older Americans Act programs, I am very reluctant to enter into discussions which may lead to programmatic changes in the act. If amendments to clarify language or intent are needed, then I shall welcome suggestions for such amendments. However, it is my hope that we can agree upon a simple extention of the act and that we will not venture into substantive areas which, if amended, will require the issuance of regulations and yet another series of changes by the service delivery network.

I feel sure that all of you in this room are aware that May is traditionally designated as the month during which we honor older people, individually and in groups, for their contributions to our Nation. As activities in celebration of older Americans month begin, and we evaluate our progress in community and nutrition services, I would like to call attention to one of the important, but often overlooked services which area agencies on aging are providing through senior centers and nutrition sites. This service is education and training for older Americans themselves, and this breakthrough deserves attention during the upcoming celebration and ceremonial events.

In the past, educational opportunities for the elderly were sometimes stereotyped as programs for enrichment, recreation, and enjoyment. These are currently important and worthwhile undertakings. But we realize our resources are not without limit as more and more older persons become interested in work and volunteer activities, and as the healthy, vigorous population of older Americans strive for independence and self-sufficiency, agencies serving the elderly are expanding their concepts of education and training to include very practical programs of self-help. These programs include consumer education, nutrition counseling, preretirement and second-career education, financial planning, and health education.

As studies continue to illustrate that older adult learning interests are perhaps the broadest of any age group, we want to be sure that Older Americans Act programs reflect these trends by encouraging service agencies to develop this scope of services.

"Lifelong learning for self-sufficiency" was the theme of one of the Mini-White House Conferences last year, and I think that title is a good description of where we see older Americans going in their quest for education and training opportunities. I

also hope this title is used during older Americans month to draw attention to both the interests of older persons and to the contributions they can continue to make if given adequate opportunity.

Just last year the higher education legislation was refined and improved to reach underserved adults, including the elderly. As a result, I want to insure that agencies and organizations which serve older Americans are able to participate fully in planning and coordination of a complete range of education services to older persons, tailored to their needs and in settings they can access.

I am hopeful that what we discuss here today will provide additional opportunities for older persons to live with purposeful challenge and dignity in their later years.

Senator CHILES. I would like to ask Mr. Black a question, if I might. Secretary Black, I was especially pleased to hear your comment that disincentives must be removed from the Social Security Act, so that older people can advance their economic position by working, rather than just trading their paycheck for a loss in benefits support.

In my recent social security reform measure, S. 484 I propose the removal of the earnings test, along with the payroll tax for employers of persons over the age of 65, as an incentive for older persons to continue working and employers to retain older workers.

Has it been your experience in Pennsylvania that older persons would like to continue working, and do you think they have been discouraged by the loss of income and benefits, in addition to facing discriminatory practices?

Mr. BLACK. Yes, sir. I think that there are many older people who would appreciate the opportunity to have employment. However, these disincentives do work to their disadvantage. I think we also have some options for older people who may not want to work full time—such things as flextime and part-time employment, to utilize skills gained over a working career. I was appalled the other day to learn that we are importing machinists from Western Europe because the machinists available in this country apparently do not fill the job requirements. And it would seem to me that there are a number of retired machinists who would welcome an opportunity to work 4 hours or 1 week out of 4, or whatever the time frame would be, initially agreed upon by employer and employee. And this would encourage older people and make them more self-reliant and economically stable.

Senator CHILES. Do you note the fact that the penalty comes in after they reach the earnings test? What kind of discouragement do you think that places on workers? I know in my State, it is almost like the test is an absolute ceiling and when they reach the ceiling they quit trying to earn.

Mr. BLACK. I would share that as Pennsylvania's experience, as well.

Senator CHILES. I would be interested in the comments from Arkansas, Mr. Scott, and Mr. Casula, from Maryland.

Mr. SCOTT. I would simply concur, Mr. Chairman. One thing I wanted to mention, though, I think probably one of the better hearings I had an opportunity to hear, I believe you chaired last year, Mr. Chairman, when we had Polaroid, Hewlitt-Packard, and some other corporate executives in here, talking about the creative kinds of things they were doing, the part-time retirement, retirement rehearsal, phased retirement, and I think those are very positive examples of what can be done.

Senator CHILES. Well, those firms seem to destroy the myth that suddenly, when you reach 65, you become accident-prone or you cannot learn something else, or you start being absent from work. All of the companies testifying, which ranged from heavy work with the oil industry to highly skilled work, seemed to say that the myths are not true at all.

Mr. CASULA. Senator, I agree with what Mr. Black has indicated. As one of those people who are over 55, I know when I reached the age of 65, if I had a cap placed on what I can and cannot do as far as funds are concerned, I would be in very serious trouble; I would have some problems, because I am accustomed to moving around and doing things, and I am sure a lot of the senior citizens are in the same position in this country. And I think that would affect their health, their mental capacity, et cetera. I think it goes a long way.

I think we should tap people like that, because they are very important, and they do have a wealth of knowledge, a wealth of experience that we cannot afford to lose.

Senator CHILES. I understand that the chairman and several other members may have some additional questions that they would like to submit for the record. I have no more formal questions; however, I want to thank you all very much, each of you, for your contributions.

Mr. CASULA. Senator, if I might add just two commercials here, two points. One is on title V. I noted this morning, when Mr. Rust spoke, that the administration is recommending that title V be extended for 1 year. I recommend, as a representative of NACo, that we extend it through the 3 years that was recommended by the administration, as far as the Older Americans Act is concerned, to terminate jointly with the Older Americans Act, and see what comes out of the White House Conference on Aging in November.

Second, regarding the comment that was made this morning by Mr. Rust, as far as getting the Department of Agriculture out of the picture on the nutritional side of the house, and placing it all in the grant, at this point, counties are not subsidizing the food program as long as agriculture, or as long as they have it. But if this goes back and goes directly to the States, I fear that some of the States may not be able to subsidize the money that they are asking for in order to keep the program moving. And I think that is a concern. I bring that to your attention for whatever action you see fit.

Senator HEINZ. Thank you very much.

Our next panel includes Janet Zobel, director of the seniors in community service program of the National Urban League; Edward Young, vice president, sales and marketing, and Gregory Kiproff, director, field services operations, DEK-Electro, Inc., and Brother William Geenen, of the Senior Friendship Centers.

I would like to ask Mr. Geenen to be the leadoff, because I think Senator Chiles would like to introduce Brother Geenen.

Senator Chiles.

Senator CHILES. We are certainly delighted to have the panel here, and Brother Geenen, we are delighted to have you with us.

I had an opportunity, Mr. Chairman, to visit the Senior Fellowship Center that Brother Geenen runs in Sarasota. It was started in 1973, and now, what was one little operation, at one little place, in 1973, has expanded to some 22 locations, and they are serving 2,000 people a day. They have a tremendous network of volunteers that somehow, Brother Geenen was able to put together, who furnish tremendous amounts of their time—doctors and nurses, and other professionals, as well. And I can tell you that he runs a most interesting operation.

We are delighted to have you here and to hear your comments on the act itself, Brother Geenen.

STATEMENT OF BROTHER WILLIAM GEENEN, CSC, SARASOTA, FLA., EXECUTIVE DIRECTOR, SENIOR FRIENDSHIP CENTERS, INC.

Brother GEENEN. Thank you, Senator Chiles and Senator Heinz. It is a real privilege to be here.

Mr. Chairman and members of the Special Committee on Aging, I am pleased to be with you today to discuss the position of a first-line provider of services to older Americans and how we attempt to coordinate funding, both public and private, to provide the fullest array of necessary services to older persons.

I am the founder and volunteer director of Senior Friendship Centers, Inc., a not-for-profit, nonsectarian, private corporation founded in Sarasota, Fla., in 1973.

Presently, the organization serves a two-county area on the southwest coast of Florida where the elderly population over 65 years of age exceeds 44 percent of the total population.

Senior Friendship Centers is a multifaceted organization which provides service and meaningful service opportunities to nearly 2,000 persons a day, from 22 different locations in two counties. These services include meals, transportation, health care, social, educational and recreational activity, adult day care, homemaker, appliance repair, home share, telephone reassurance, and outreach. The annual operating budget for the current year is attached as exhibit A.[1] And just as an aside, 34 percent of that budget comes from the Older Americans Act.

The funding from the Older Americans Act has enabled us to get this job done. It touches the very core of what people need—a support system that will allow them to be resourceful and independent without destroying their sense of personal worth. If this administration deems it necessary to cut budgets, let us not allow it to cut into the personal dignity of older Americans.

It has been stressed in the Older Americans Act that senior centers be a focal point in a community. I consider this one of the highlights of the act. This concept is subject to wide interpretation as to physical locations and types of service. Senior Friendship Centers bases its operational theory on the neighborhood concept with various centers forming a network for easy access.

To allow for this principle to work, we have set up a network of in-kind senior centers to complement the basic central unit which is supported by Older Americans Act funds.

[1] Retained in committee files.

A major point of concern for me is that the Older Americans Act in its application and interpretation by State and area agencies does not give the local grantee agency the flexibility it needs to provide a continuum of service to older persons. One example of this rigid regulation applies to congregate and home delivered meals which does not allow us to provide the best solution to the local problem. At times, we find that the older person has to move back and forth from one program to the other for health or social reasons. Sometimes, the system imposes an either/or choice and sometimes the system allows no choice.

The greatest constraint which is placed upon us as a provider agency is the imposition of a superstructure, the area agency on aging. I truly question its worth in providing service to older Americans under the Older Americans Act. Eight years ago, when Senior Friendship Centers was organized, we obtained our Older Americans Act funding through our State office on aging. I found this arrangement direct, efficient, creative, and bearing maximum results. Now we are mandated to work through another layer of bureaucracy which is slow, time-consuming, money-consuming, most inflexible, without imagination, and often ill-advised as to local needs. I would recommend that the committee take a closer look at the role of the area agency.

It is my opinion that any growth in the service potential of Senior Friendship Centers in the years since its establishment is in no way a credit to the activities of that area agency. In fact, the bureaucratic burden which has been placed upon us, has diverted dollars and human energy away from vital services to older Americans.

It is our recommendation that the Older Americans Act provide a funded management capability for volunteers. The recruitment, training, recognition, and retention of volunteers should be recognized as an integral part of the total management responsibility of the grantee agency in fulfilling its role as a provider of services to the elderly.

Senior Friendship Centers, Inc., during a 12-month period, 1979–80, reported a "volunteer payroll" of $422,144. This represents approximately 1,000 different persons working a wide variety of jobs, from executive director to bus escort for the congregate dining program. A monthly average of 425 volunteers report to work at any 1 of 22 sites in jobs that are vital to the delivery of services to about 2,000 participants on a daily basis. In most instances, a service would either not be delivered or would be seriously hampered, were these people not to "report for duty."

The selection, training, and retention of a volunteer is equally as important as the selection of a paid worker, perhaps even more so, since the expectations of a volunteer are frequently difficult to meet and maintain unless the grantee can fully and effectively use their skills.

If funding remains at previous years' levels, the need for volunteer manpower will increase. In an organization such as ours, which depends heavily on volunteers, it is imperative that a paid worker, preferably with some personnel management experience, be in place to assure this manpower support is available at all times and not only in a crisis response. We recommend that funds

for volunteer management be given high priority as an explicit requirement.

There are many administrative requirements in the Older Americans Act which set up hurdles and divert time, talent, energy, and attention from our caring for the elderly with needs.

I recommend that the grantee agency be permitted to determine the priority of prescribed services and the allocation of funds since local needs are best recognized by that agency. If a State adopts a 2- or 3-year plan and is funded on that basis, the grant authority to the grantee should be changed from 1 year, or 2 to 3 years, respectively. As a result, only major revisions to the approved multiple-year grant would go through the usual levels of review.

I further recommend that reporting and recording procedures be reevaluated in light of their true value in offering quality programs and services to older Americans. For instance, we are currently maintaining a by-name card system of 10,000 or more participants by activity, and its usefulness is moot.

We are certain that it was, and is the intent of the legislators, that the Older Americans Act serve our older Americans. As a local provider, many times, we find ourselves forced to serve the system instead of the people.

Senator HEINZ. Brother Geenen, thank you very much.

Ms. Zobel.

STATEMENT OF JANET ZOBEL, NEW YORK, N.Y., NATIONAL PROGRAM DIRECTOR, SENIORS IN COMMUNITY SERVICE PROGRAM, NATIONAL URBAN LEAGUE, INC., ACCOMPANIED BY EDWARD YOUNG, VICE PRESIDENT, SALES AND MARKETING, AND GREGORY KIPROFF, DIRECTOR, FIELD SERVICES OPERATIONS, DEK-ELECTRO, INC.

Ms. ZOBEL. Thank you, Mr. Chairman.

In the interest of time, I will briefly summarize the written testimony and request that the full testimony be included in the record.

Senator HEINZ. Without objection, your entire statement will be a part of the record.[1]

Ms. ZOBEL. Mr. Chairman and members of the Special Committee on Aging, I am Janet Zobel, national program director for the National Urban League's seniors in community service program.

On behalf of the National Urban League, thank you for requesting our input regarding the direction of our seniors in community service program funded under title V of the Older Americans Act.

In particular, we want to apprise you of our initiatives with the private sector.

Here with me today are Edward Young, vice president, sales and marketing, and Gregory Kiproff, director of field services operations of DEK-Electro, Inc., who have worked closely with our program in Philadelphia to employ older workers. Mr. Young will testify at the close of this brief testimony.

The National Urban League, as you know, is a nonprofit community service organization dedicated to securing equal opportunities for the poor and minorities in all sectors of our society.

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[1] See page 59.

Through our network of 116 affiliates, in our 71 years as a service provider, the National Urban League has remained eminent in securing employment and training opportunities in the private sector.

As a part of our mission, we seek to alleviate the acute problems that older workers face across this country.

In 1964, we published a pioneering document entitled, "Double Jeopardy: The Older Negro in America Today," which brought to the forefront for the first time the very special plight of minority older Americans. "Double Jeopardy" identified the fact that older low-income minorities suffered directly from the cumulative effects of a lifetime of deprivation and injustices. Limited schooling and pervasive racial discrimination ruled out opportunities for skilled occupations, steady employment, and decent wages. Those who were able to gain skilled jobs were paid far less than their white counterparts.

Seventeen years later, because their incomes were consistently low and unstable, minority older adults today are eligible for only the smallest social security or pension benefits, if any. The bottom line is that far greater numbers of minorities enter their later years with severely inadequate financial resources. They need employment opportunities not simply to alleviate boredom; they need employment opportunities because they need the income.

We are all very well aware of the impact of inflation on our older population, and I need not go through the plight of our older workers in terms of their fixed incomes. But in recent years, industry has rapidly applied new technology and modes of production. High technology, combined with inflation, has led business to drastically cut back on their work force. The workers that remain must be better trained and retrained to keep up with expanding new developments. What good is it, many employers ask, to retrain older workers—workers who will be leaving their jobs in 5 to 10 years, anyway? Thus, the older worker is now being forced, or strongly encouraged, to retire earlier than he or she may really want to or can afford to.

This attitude is not shared by all employers, however. Growing numbers of companies, large and small, are beginning to realize the benefits of hiring and retaining older workers in their work force. Contrary to prevailing myths and stereotypes, recent studies have clearly indicated that as workers become older, there is virtually no decline in dependability, attendance rates, patience, ability, and willingness to learn new skills.

A number of companies have implemented innovative and cost-effective strategies for employing older adults. A number of personnel managers have personally related to the Urban League their companies' enthusiasm for older workers. One such example, from the personnel officer of New England Merchants Bank, is:

> Many of our senior hires come to us with very well-disciplined skills. Whether the job needs the ability to work with numbers or people, or both, we find that seniors are dependable and do their jobs well.

The National Urban League's seniors in community service program since its inception has provided sorely needed incomes through useful work for all too small a number of eligible low-income older Americans.

Out of 8 million eligible individuals, over 52,000 persons are only currently served by the program. This is a ratio of less than seven-tenths of 1 percent.

The National Urban League's seniors in community service program, currently in its third year of operation, concentrates its efforts on the transitioning of program participants into unsubsidized employment. Title V has successfully enabled us to place a number of older workers back in the labor force.

Just a few examples: A 58-year-old saleswoman earning $3.45 an hour with Weidbolt's Department Store in Champaign, Ill.; a 60-year-old file clerk earning $3.47 an hour with Girard Bank, in Philadelphia, Pa.; a 61-year-old security guard, a woman, earning $4 an hour with Wells Fargo Guard Services, Westchester, N.Y. These are just a few of the many examples of our endeavors to impact our placements into the private sector.

The National Urban League does not view its title V program as simply an income maintenance program. Rather, it is a job readiness and placement program designed to enable low-income older adults to reenter the work force and advance from secondary labor market jobs into primary labor market jobs. The program emphasizes employability planning, counseling and training, job development and transition into unsubsidized employment.

Thus far, the private sector has taken title V efforts seriously. An analysis of program year 1979–80 shows that of the 100 unsubsidized placements, 31 percent were with private-for-profit companies. The average wage was $3.98 an hour.

Currently, this year, our unsubsidized placement rate in the private-for-profit sector is 32 percent. The average age of transition is approximately 61.

The private sector's increased concern with older worker employment issues has been further evidenced through their support of the Urban League's seminars on hiring older workers. Conducted in 10 cities this year for more than 500 private and public sector personnel managers, these seminars have updated employers on the laws, trends, and practical strategies related to hiring and retaining older employees.

Participating executives from Fortune 500 companies as well as medium-size and small firms, are learning through the seminars that employing older adults is not only the socially responsible and law-abiding thing to do; it is also a productive and profitable thing to do. As a result of the seminars, positive working relationships have been initiated and enhanced at the local level between employers, title V sponsors, other older worker service providers, and regulatory agencies.

The National Urban League has also established an Advisory Committee on Older Worker Employment, designed to provide knowledgeable input to NUL staff concerning the present and future employment climate for minority and low-income older workers. The committee is comprised primarily of top private sector personnel executives who are concerned with older worker issues and with enhancing the capability of nonprofit service providers in meeting the needs of their constituents.

Each of our 13 local projects have also established advisory committees.

Mr. Chairman and members of the Special Committee on Aging, the National Urban League urges you to consider the following recommendations for the reauthorization of title V: The extension of the program for at least 2 years, preferably 3, with minor changes in current program design; continued cooperation and coordination between national and State sponsors; maintenance of current income criteria, given budgetary constraints and income disparities among older persons; special emphasis on geographical targeting to areas of greatest need and to individuals who are most in need of employment and income security; given the severity of poverty and unemployment among minority older adults, special recognition of their needs and specific guidance that any future expansion in the program will provide for equal division of new slots among national sponsors. Presently, the three minority national contractors receive less than 4 percent of the allocated funds; minor language adjustments in the act to allow program sponsors to develop subsidized opportunities in the private-for-profit sector, including a short-term OJT component for specific occupations, skills upgrading, and vocational exploration. These activities should require commitments from employers for permanent hiring of program participants.

The National Urban League fully believes this component would be a feasible operation. Since 1964, we have been involved in OJT programs through our 116 affiliates around the country.

We also feel it is important that there be greater budget flexibility to allow for private sector job development, employer seminars, and other initiatives to enhance private sector relations.

The expansion of the program in terms of its original authorization ceiling is important to allow us to take on some of these new initiatives.

In closing, Mr. Chairman, I would like to emphasize the importance of strengthening title V programs to assure that our older adults receive a fair share of the employment opportunities afforded to all age groups; that the program remain targeted to the population in greatest need of a job, and that it remain a national program. Otherwise, we feel that it may be diluted and lose its emphasis on serving older adults who have minimal, if any opportunity, for employment.

Thank you.

Senator HEINZ. Thank you, Ms. Zobel.

[The prepared statement of Ms. Zobel follows:]

PREPARED STATEMENT OF JANET ZOBEL

Mr. Chairman and members of the Special Committee on Aging, I am Janet Zobel, national program director for the National Urban League's seniors in community service program. On behalf of the National Urban League (NUL), thank you for requesting our input regarding the direction of our seniors in community service program funded under title V of the Older Americans Act. In particular, we want to apprise you of our initiatives with the private sector.

Here with me today are Edward Young, vice president, sales and marketing, and Gregory Kiproff, director, field service operations of DEK-Electro, Inc., who have worked closely with our program in Philadelphia to employ older workers. Mr. Kiproff will testify at the close of this brief testimony.

The National Urban League is a nonprofit community service organization dedicated to securing equal opportunities for the poor and minorities in all sectors of our society. Through our network of 116 affiliates in 34 States and the District of Columbia, four regional offices, and the Office of Washington Operations, we seek to

initiate solutions to the wide disparities in our social and economic strata. In our 71 years as a service provider, the National Urban League has remained eminent in securing employment and training opportunities for our poor and minority constituents in the private sector. As a part of our mission, we seek to alleviate the acute problems that older workers face across this country.

In 1964, we published a pioneering document entitled "Double Jeopardy: The Older Negro in America Today," which brought to the forefront, for the first time, with very special plight of minority older Americans. "Double Jeopardy" identified the fact that older low-income minorities suffered directly from the cumulative effects of a lifetime of deprivation and injustices. Limited schooling and pervasive racial discrimination ruled out opportunities for skilled occupations, steady employment, and decent wages. Those who were able to gain skilled jobs were paid far less than their white counterparts.

Seventeen years later, because their incomes were consistently low and unstable, minority older adults today are eligible for only the smallest social security or pension benefits, if any. The bottom line is that far greater numbers of minorities enter their later years with severely inadequate financial resources. They need employment opportunities not simply to alleviate boredom; they need employment opportunities because they need the income.

With ever-increasing cost-of-living rates, older adults, now more than ever before, need the opportunity to continue in gainful employment for as long as their health and their desire to work are there. The cost-of-living is especially exorbitant in the inner-city where increasing numbers of minority older persons now reside. Even during periods of economic recovery, labor force participation rates show that older minority workers have experienced decreased labor force participation and increased unemployment rates. If older adults are not allowed to continue earning a living in their primary occupations, new occupations, training, retraining, and employer incentives must be created for our older adults. Public benefits alone are not enough for their emotional and economic security.

In recent years, industry has rapidly applied new technology and modes of production. High technology, combined with inflation, has led business to drastically cut back on their work force. The workers that remain must be better trained and retrained to keep up with expanding new developments. What good is it, many employers ask, to retrain older workers—workers who will be leaving their jobs in 5 to 10 years anyway? Thus, the older worker is now being forced, or strongly encouraged, to retire earlier than he or she may really want to or can afford to.

This attitude is not shared by all employers, however. Growing numbers of companies, large and small, are beginning to realize the benefits of hiring and retaining older workers in their work force. Contrary to prevailing myths and stereotypes, recent studies have clearly indicated that as workers become older, there is virtually no decline in dependability, attendance rates, patience, ability, and willingness to learn new skills, etc. A number of companies have implemented innovative and cost-effective strategies for employing older workers. New concepts such as "flexitime," "phased retirement," "pension payoff," and "annuitant pool" are becoming integral parts of personnel management vocabulary.

A number of personnel managers have personally related to the Urban League their companies' enthusiasm for older workers:

"One important trait I find among our older workers is stability, and the other is experience. I've noticed that older workers find the right job for themselves and stay on it. In an assembly line situation like ours, the experience of the older worker is a great help."—Plant personnel manager, International Harvester, Fort Wayne, Ind.

"Older people do particularly well in sales. The interpersonal skills essential for dealing well with customers—patience and maturity—are assets that senior employees seem to have in abundance."—Vice president, Dayton Hudson Corp., Minneapolis, Minn.

"Many of our senior hires come to us with very well disciplined skills. Whether the job needs the ability to work with numbers or people, or both, we find that seniors are dependable and do their jobs well."—Personnel officer, New England Merchants National Bank, Boston, Mass.

The senior community service employment program, since its inception, has provided sorely needed income through useful work for an all too small number of eligible low-income older Americans. Out of 8 million eligible individuals, 52,250 persons are currently being served—a ratio of less than seven-tenths of 1 percent.

The National Urban League's seniors in community service program (SCSP), currently in its third year of operation, concentrates its efforts on the transitioning of program participants into unsubsidized employment. Title V has successfully

enabled us to place a number of older workers back in the labor force. Individual examples are listed below:

A 63-year-old head chef earning $4.50 per hour with Georgia Institute of Technology, Atlanta, Ga.

A 58-year-old saleslady earning $3.45 per hour with Weidbolt's Department Store, Champaign, Ill.

A 73-year-old nutrition worker earning $3.35 per hour with the city of Jersey City, N.J.

A 60-year-old file clerk earning $3.47 per hour with Girard Bank, Philadelphia, Pa.

A 58-year-old machine operator earning $3.50 per hour with Petersen Machine Co., Racine, Wis.

A 59-year-old toll collector earning $4.10 per hour with Richmond-Petersburg Turnpike, Richmond, Va.

A 61-year-old security guard (female) earning $4 per hour with Wells Fargo Guard Services, Westchester County, N.Y.; and

A 58-year-old arts and crafts teacher earning $4.25 per hour at Englewood Nursing Home, Boston, Mass.

The National Urban League does not view its title V program as simply an income maintenance program. Rather, SCSP is a job readiness and placement program designed to enable low-income older adults to reenter the work force and advance from secondary labor market jobs into primary labor market jobs. The program emphasizes employability planning, counseling and training, job development, and transition into unsubsidized employment. As more participants move off the subsidized payroll, more opportunities are made available for new participants to take advantage of the program.

Thus far, the private sector has taken title V efforts very seriously, employing significant numbers of program "graduates." To illustrate: An analysis of our SCSP program year 1979-80 shows that of the 100 unsubsidized placements, 31 percent were with private-for-profit companies. The average wage was $3.98 an hour, and the average participant age at the time of transition was 62 years. SCSP data for the current fiscal year (as of March 31, 1981) indicate that 32 percent of unsubsidized placements were with private-for-profit companies. The average wage was $3.95 an hour; the average age at transition, 61.

The private sector's increased concern with older worker employment issues has been further evidenced through their support of the Urban League's seminars on hiring older workers. Conducted in 10 cities this year for more than 500 private and public sector personnel managers, these seminars have updated employers on the laws, trends, and practical strategies related to hiring and retaining older employees. Subjects covered include:

Demographic Realities of the Labor Force: Consequences for the Private Sector.

Preferred Work Arrangements and Remunerative Packages for Older Workers.

Age Discrimination and the Law.

Employment Strategies for Maximum Utilization of Older Workers; Current Corporate Implementations; Cost Effective Fringe Benefits.

Local Age/Employment Statistics and Trends; Comparisons with National Data.

Strategies for Incorporating Older Workers into the Labor Force; and

Opportunities for Private Sector Involvement in Existing Programs Targeted to Older Workers Sponsored by the Urban League and Others.

Participating executives—from Fortune 500 companies as well as midsize and small firms—are learning through the seminars that employing older workers is not only the socially responsible and law-abiding thing to do; it is also a productive and profitable thing to do. As a result of the seminars, positive working relationships have been initiated and enhanced on the local level between employers, title V sponsors, other older worker service providers, and regulatory agencies such as the EEOC.

The National Urban League has also established an Advisory Committee on Older Worker Employment, designed to provide knowledgable input to NUL staff concerning the present and future employment climate for minority and low-income older workers. The committee is comprised primarily of top private sector personnel executives who are concerned with older worker issues and with enhancing the capability of nonprofit service providers in meeting the needs of their constituents. Other committee members include members of the aging advocacy and worker advocacy communities. A listing of our advisory committee membership is attached. Each of our 13 local project sites have established advisory committees of their own similar objectives.

Mr. Chairman and members of the Special Committee on Aging, the National Urban League urges you to consider the following recommendations for the reauthorization of title V, SCSEP:

Extension of the program for at least 2 years, preferably 3, with minor changes in current program design as specified below.

Continued cooperation and coordination between national and State sponsors.

Maintenance of current income criteria, given budgetary constraints and income disparities among older persons; special emphasis on geographical targeting to areas of greatest need and to individuals who are most in need of employment and income security.

Given the severity of poverty and unemployment among minority older adults, special recognition of their needs and specific guidance that any future expansion in the program will provide for the equal division of new slots among national sponsors. (Presently, minority national sponsors receive less than 4 percent of the allocated funds.)

Minor language adjustments in the act to allow program sponsors to develop subsidized opportunities in the private-for-profit sector, including a short-term OJT component for specific occupations; skills upgrading; and vocational exploration. These activities should require commitments from employers for permanent hiring of participants.

The National Urban League fully believes this component would be a feasible operation. Since 1964, we have implemented numerous OJT programs with an overall retention rate of over 80 percent. Beginning nationally and expanding to 32 subcontracted affiliates, NUL expanded OJT to over 60 affiliates with the inception of CETA. Currently, all 116 affiliates are involved in employment and training service delivery.

Language to assure greater budget flexibility that would encourage private sector job development, employer seminars, and other initiatives to enhance private sector relations.

Expansion of the program allocation up to the original authorization ceiling in order to further alleviate unemployment, increase labor market participation rates, and thereby increase tax revenues.

In closing, Mr. Chairman, I would like to emphasize the importance of strengthening title V programs to assure that our older adults receive a fair share of the employment opportunities afforded to all age groups.

Title V should remain a targeted program under the Older Americans Act administered on a national level through the Department of Labor. Other potential funding mechanisms might well dilute the program's purpose and redirect its ultimate goal of transitioning participants into unsubsidized employment.

Mr. Chairman, the National Urban League appreciates this opportunity to provide testimony on title V.

Thank you very much.

NATIONAL URBAN LEAGUE, INC., ADVISORY COMMITTEE ON OLDER WORKER EMPLOYMENT

Sharyn Block, chairperson, director of personnel and human resources, Children's Television Workshop, 1 Lincoln Plaza, New York, N.Y. 10023, (212) 595-3456 ext. 406 or 408.

Kent B. Amos, director, corporate affirmative action and EEO, Xerox Corp., Stamford, Conn. 06904, (203) 329-8711.

Lee Archer, Jr., vice president, personnel, General Foods Corp., 250 North Street, White Plains, N.Y. 10625, (914) 6832-2623.

Charles F. Bacon, vice president, personnel and employee relations, Sears, Roebuck & Co., Sears Towers, Chicago, Ill. 60684, (312) 875-2500.

Dr. Anna Marie Buchmann, vice president, corporate service, Bankers Life & Casualty Co., 4444 West Lawrence Avenue, Chicago, Ill. 60630, (312) 777-7000.

Charles Childs, manager, national field services, Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017, (212) 551-6941.

Rose Dobrof, executive director, Brookdale Center on Aging, Hunter College, 400 East 26th Street, New York, N.Y. 10010.

Jack Kaufman, professor and director, Metropolitan District Office, Cornell University, 3 East 43d Street, New York, N.Y. 10017, (212) 599-4573.

Valerie Levy, director, minority affairs, NYC Department for the Aging, 280 Broadway, New York, N.Y. 10017, (212) 577-0847.

Michael J. McLaughlin, vice president, personnel, New York Life Insurance Co., 51 Madison Avenue, New York, N.Y. 10010, (212) 576-7000.

James Nixon, vice president, equal opportunity and affirmative action, International Telephone & Telegraph Corp., 320 Park Avenue, New York, N.Y. 10022, (212) 752-6000.

Dorothy Orr, vice president, Social Responsibility Office, Equitable Life Assurance Society of the United States, 1285 Avenue of the Americas, New York, N.Y. 10019, (212) 554-1016.

Philip Prince, senior vice president, personnel and management resources, American Express Co., 125 Broad Street, New York, N.Y. 10004, (212) 480-2000.

Robert Zager, vice president, Work in America Institute, 700 White Plains Road, Scarsdale, N.Y. 10583, (914) 472-9600.

Dr. Jeanne Spurlock, deputy medical director, American Psychiatric Association, 1700 18th Street NW., Washington, D.C. 20009, (202) 797-4875.

Robert M. Steed, vice president and director, personnel, Time, Inc., Time-Life Building, 1271 Avenue of the Americas, New York, N.Y. 10020, (212) 841-3261.

John C. Ward, vice president, employee relations, Sterling Drug, Inc., 90 Park Avenue, New York, N.Y. 10016, (212) 972-4141.

Herbert J. Wise, vice president, personnel, Helena Rubinstein, Inc. (subsidiary of Colgate Palmolive Co.), 300 Park Avenue, New York, N.Y. 10020, (212) 398-3000.

Senator HEINZ. Mr. Young.

Mr. YOUNG. Thank you, Senator.

Senator Chiles, Senator Heinz, and members of the Special Committee, I would like to say before I give my testimony that, after listening to Secretary Black, I feel that he has found the light and the heat.

Also, I would like to say at this point that my role here, the way I see it, with limited knowledge of title V and the acts that we are discussing right now, I am going to present, only from a private sector, our company's role in employing the aged and the elderly in Pennsylvania, and my recommendations will be based purely on a private sector observation.

I would like to start by giving a short background and history of DEK-Electro, Inc. DEK-Electro, Inc., was originally incorporated in the State of Indiana on October 31, 1957. The major thrust of our company has been in the development of specialized cameras, support hardware, and efficient production methods to produce high-quality photo identification cards.

We pioneered the concept of utilizing color photo identification in State-issued driver license programs.

DEK-Electro, Inc., has achieved a position of preeminence and has plants in 22 States and 9 countries.

We started our driver photo license program in Pennsylvania in March 1980. Currently, we have 185 employees on the payroll, 118 of which are 55 years or older. Our oldest employee was 81, but retired recently because of health reasons. Currently, our oldest employee is 74 years of age.

We found our employees primarily through the district office of the area agency on aging, of which there are 49 offices throughout Pennsylvania, and the Urban League. Our employees are titled, "camera operators," and take photographs and process State forms. Their mean wage is approximately $4 per hour. They primarily work part time, or 4 hours each day. We do not offer company benefits.

The initial training consists of 4 days with continued on-the-job training lasting up to 6 months.

DEK-Electro, Inc., finds the mix between the younger employees and the elderly and aged an efficient and effective work force to accomplish our goals and the State requirements.

It is our consensus that our senior hires are dependable, responsible, and calm when dealing with the public. However, they do require additional supervision, a longer training period, and have problems driving to work during the winter months.

Our recommendations to this committee in regards to encouraging the private sector and to employing senior hires are the following:

One, provide more information to the private sector in regards to the attributes and abilities of the senior hires.

Two, provide incentives to help with a longer training period for the senior hires.

Three, be conscious that the private sector must have the proper job positions to fully utilize a senior hire with competency and economics being important factors.

Four, focus attention on the special needs influencing the senior hires, that is, getting to and from the work location.

Five, seek out administrators in the private sector in major areas, such as financial, industrial, and commercial markets, and ask for recommendations in regards to what areas within these industries lend themselves to employing senior hires.

Mr. Chairman, I hope that this testimony has been informative in regards to DEK-Electro's role in Pennsylvania.

Thank you.

Senator HEINZ. Mr. Young, thank you very much.

Brother Geenen, what are your greatest constraints to providing services for older persons on the local level, and what modifications in the Older Americans Act would enhance your effectiveness?

Brother GEENEN. We often hear the remark that sometimes local organizations can carry out the work better than Government. Unfortunately, when a local organization attempts to act, then Government regulations frequently stand in the way of this type of initiative and service.

We have put in place many programs. Senator Chiles referred earlier to a medical program where we are operating a full-fledged health service, with 22 volunteer doctors and nurses providing health care to the elderly. Quite frankly, if we had to plan, fund, and monitor this system through some of the dictates of the Older Americans Act and area agency regulations, I doubt if many doctors and patients would be getting together.

I support the funding process of the Older Americans Act, but I would like to see it be consistent with local initiative.

Senator HEINZ. Well, the administration has proposed a good deal more flexibility and consolidation of the Older Americans Act titles under title III. The flexibility in terms of priority setting would be nearly total. Would those be of assistance to you?

Brother GEENEN. Senator, certainly, because the priority-setting situation is very important. You and I know that in certain areas, there are some resources available to meet local needs. I welcome that proposal.

Senator HEINZ. I gather that you have found that so-called 50-percent priority setting impacting on you?

Brother GEENEN. Yes, the needs vary and often are provided for by local resources. We, as a grantee agency, through this flexibility, can allocate OAA to the greatest needs.

Senator HEINZ. What recommendation do you have for doing something you apparently do very well, which is to utilize the resources and talents of our older citizens. Ms. Zobel and Mr. Young have given us some very encouraging testimony. How have you been so successful; how do you instill dignity and yet eliminate patronizing attitudes by service providers?

Brother GEENEN. It was said here earlier this morning that this entire act should not be clouded in any way with the welfare image; that people have dignity which must be recognized. It is very important that when we are providing service we let the person know that whether he is giving or receiving, he is important and needed as an individual and as a member of the community.

I feel that many of our older people are as frustrated as we are in getting things done, but when they see that efforts are well utilized and results are forthcoming, they are willing to give their talents and time.

Referring to the example I used previously, the medical service, I would not have the volunteer effort of all these doctors and nurses if we had to subject them to the excessive monitoring and reporting that we experience in AoA funding.

Senator HEINZ. Thank you.

Ms. Zobel, there is no requirement in the law for the unsubsidized placement of title V enrollees. There is a set of regulations that set a goal for each project of about 15 percent to be placed in such jobs during the year. Clearly, you do a quite commendable job in doing this. But should that goal of unsubsidized placement be mandated, and what would your feelings be if that goal, either in regulations or in the law, were raised to 20 percent?

Ms. ZOBEL. Well, I think that it would be very unrealistic to mandate transition. Specific geographic areas, for example, rural America, where we do not happen to operate, has very significant problems in terms of unemployment. I think that it would be important to look at the geographic targeting of unsubsidized placement, based on unemployment rates and other factors which should be considered.

I also think that if we are going to raise the goal of unsubsidized employment, we should also consider the importance of giving more budget flexibility. It is very difficult to work in the private sector and to transition participants, when we do not have the funds to do so.

Senator HEINZ. When you say "more budget flexibility," you mean "more money"?

Ms. ZOBEL. As well as flexibility.

Senator HEINZ. What do you mean in terms of flexibility?

Ms. ZOBEL. There is a limitation on the administrative funds that can be expended in the program of 15 percent. We share those administrative funds with our local Urban Leagues. It leaves very little for us to work in the private sector and run employer seminars. We, in fact, received funding out of another component of the Department of Labor for the seminars and not out of title V.

Senator HEINZ. CETA programs have an 18-month limitation on them for public sector employment, PSE, jobs. What would be the

effect of having some kind of limitation, say, 18 months, for the title V jobs?

Ms. ZOBEL. It would be very difficult, in that a large number of the people we serve are 70 or older. To put an 18-month limitation would be to take them out of the labor force to a great extent after 18 months.

Senator HEINZ. Well, given the fact that it is unlikely that budgetary resources are going to rise, what do you say to those who say:

> We understand that there is a great need, but there should be an opportunity for all those in like circumstances to have one of these jobs, and the only way we know how, at the present time, to accommodate the question of equity under those circumstances is to provide a limitation on the amount of time any one person can have that employment.

Ms. ZOBEL. That in fact is true, Mr. Chairman. It would give greater participation to a greater number of people. But if we are serving poor and low-income people, we would be also eliminating their economic stability which they rely on through their work. I think another component to title V that would help us transition more people into private sector jobs would then open more opportunities for low-income people in the title V program as it currently exists.

Senator HEINZ. I would certainly agree. What ought that to be?

Ms. ZOBEL. Well, I think that we could develop a short-term OJT program that would be somewhere between 4 to 6 months' depending on the kinds of training that would be needed, to transition, the lower age range participants from title V into unsubsidized employment.

Senator HEINZ. And what changes in the act do you see being necessary to achieve that?

Ms. ZOBEL. One change would be to allow for private sector participation in the program, which does not currently exist. Currently we can only work in the public and nonprofit sector. If there were language changes and some additional funds, we would be able to take greater initiatives with the private sector.

Senator HEINZ. Well, on page 9 of your statement, you describe that as, "minor language adjustments to allow program sponsors to develop subsidized opportunities in the private, for-profit sector, including a short-term OJT component for specific occupations." There are some people who would not consider that a minor adjustment, inasmuch as you would be changing the public service, community service aspect of the program quite dramatically.

What would you say to those people who believe that we should not do that?

Ms. ZOBEL. I think that we need to test it. I think that it is important to try new ways of employing older adults. And if we do not develop new initiatives, then we do not know what will work and what will not work. We have found that with private sector incentives we have been having greater success in transitioning our people into the private sector.

I think vocational exploration is another way of doing it. It is conceived by DOL as a private sector initiative under CETA. You can reimburse for the full amount of wages for older workers to explore new careers.

Senator HEINZ. Thank you.

Senator Chiles.

Senator CHILES. Brother Geenen, you have spoken in the past, and you talked a minute today, about your program whereby you are using some 22 doctors who volunteer their time to provide primary health care to older persons. Is this a model that could be duplicated on a national scale, and if so, could you give us some suggestions as to how other communities might go about starting such a program?

Brother GEENEN. I am very optimistic that it could be used in other areas. There are several hurdles, as you can appreciate—to recognize first that when a doctor retires, he does not lose his ability to care for people. And I think it is very important that these men who retire, especially when they move across State lines, that some reciprocity be given them so they can work for the people in their new area.

More so, I think one of the largest hurdles that any group would find would be coverage by some type of insurance plan, in this case, malpractice insurance. This is one area where the Older Americans Act could provide some type of coverage.

Senator CHILES. How do you do that with your particular group?

Brother GEENEN. Fortunately, we were able to gain the support of the county health department in providing malpractice insurance coverage. From talking to people who have come to see me from other parts of the country, this would be a major hurdle.

Senator CHILES. That would be a considerable expense.

Brother GEENEN. Well, it would be an expense depending on the type of clinic that you are running. We avoid the type of health service that may be subject to litigation.

Senator CHILES. So they are not doing a lot of surgery and such?

Brother GEENEN. We are not doing surgery. It is a type of health screening that people need——

Senator CHILES. More diagnostic in nature.

Brother GEENEN. We have found that many, many people of that age group have not seen a doctor in many years. We discover their primary medical problem, and if it is beyond the scope of our health service, we refer this individual to the established health care system of the community.

Senator CHILES. Now, are you getting volunteers also from the regular medical community?

Brother GEENEN. There are a number of doctors who have volunteered to support our retired doctors' team. You are aware of the fact that Florida has some very special legislation that allows a retired doctor to work for a nonprofit organization. This type of legislation is unique, I think, to Florida.

Senator CHILES. So the States would have to have that to meet the reciprocity, if the doctor were coming from out of State. Of course, he may be retired in that particular State, and he may be current with his boards.

Brother GEENEN. Right. To apply this, we would hope that, in addition to medical doctors, we could encourage the American Dental Association and other medical groups to follow suit. We have great need for dental care and other specialties for the elderly, and so far, this program has not been extended to these other medical practitioners.

Senator CHILES. Now, the special legislation does not cover dentists?

Brother GEENEN. Not in Florida. It would take the leadership of a national group to encourage the State associations on this point.

Senator CHILES. You mentioned the fact that you feel you are handicapped now in providing training for your volunteers. What changes would have to be made in the Older Americans Act to give you some help in that regard?

Brother GEENEN. Basically, I presume that Older Americans Act money can be used within certain categories right at this moment for, let us say, a volunteer coordinator. My point here this morning is I feel that this must be recognized as priority and mandated in the Older Americans Act, and certainly, then, funded, because—and you can see from our exhibit A, that one-fifth of our entire budget is volunteer labor.

Senator CHILES. I notice that is $400,000-some. What are the costs that you are having to raise from other sources to provide the training and support for that $400,000-some item there?

Brother GEENEN. Until just a short time ago, I had the services of an expert in the field of personnel management as a volunteer. But that is no longer the case. It costs us $15,000 annually—presently funded by the local county government—to coordinate volunteer effort valued at $400,000.

Senator CHILES. I see.

Ms. Zobel, since it is necessary to bring in skilled and trained workers—that is the testimony we heard from Dr. Black—have you done anything to use the older skilled workers in your program to train the younger workers so that we could keep these jobs in the United States?

Ms. ZOBEL. We have not specifically done that, but it is one of the concepts that we have addressed in our seminars with employers; the shared-work concept and the utilization of older workers to train younger workers. Also, using older workers as trainers in their companies.

Some companies are very interested in considering these ideas, and others tend to be more reticent. One of the problems that they have discussed is union restrictions on retired older workers in bringing them back into their labor force.

Senator CHILES. Well, I would think the unions would be concerned with the fact that you are actually importing workers as opposed to whether they would be emphatic with their restrictions on retired workers. I would think seeing what the consequence of not doing that is, the importing of workers for these jobs, it would seem to me that the union would be flexible on that point.

Ms. ZOBEL. Yes, one would think so. And I think we need to develop greater dialogs between the private sector employer, unions, and providers of employment services.

Senator CHILES. I recently was in a Pratt-Whitney plant in Florida, an aircraft plant, and I noticed that in the area where the tool-and-diemakers were, almost all of those people were considerably older than the rest of the workers. In fact, I would say they all appeared to be in their fifties or above—that is the tool-and-diemakers—and I did not see any young people in that section. So it looks very much like a craft that is dying out.

Ms. ZOBEL. Well, there is a scarcity of skilled people in that area.

Senator CHILES. The Department of Labor has authority under the act to develop demonstration with the private sector, and this provision has never been implemented. Should the Department of Labor be encouraged to develop such demonstrations to give private sector firms a better view of senior hires?

Ms. ZOBEL. Absolutely. I am quite disappointed that we have not seen greater initiative with the title V discretionary money, and getting the current sponsors to develop new initiatives and to test them, so that we could have models for older workers in the private sector.

Senator CHILES. Brother Geenen, I know that you are getting volunteer help wherever you can receive it. What percentage of your volunteers would you say are seniors themselves?

Brother GEENEN. Probably about 98 percent.

Senator CHILES. About 98 percent.

Brother GEENEN. I feel like a junior in that crowd.

Senator CHILES. I notice you also encourage many of the people who are primarily participants to volunteer their time. They seem to enjoy helping a little bit, even though they are there as participants, whether it is a jam session or something else. Is their help a part of a plan?

Brother GEENEN. Yes; I think it is quite obvious that for this system to work, people must help one another. You know and I know that with the number of older Americans reaching into their eighties and nineties, the need for additional services will be tremendous. This is one reason why more money should be allocated and more services provided. Statistically we know how many people are above 60 or 65 in a given State or in the Nation. When they were 70, they may have needed one service; at 80 or 90, they need three or four services. What we have to do, then, is to get the young-old helping the old-old, in many cases, and this can be done. For example, let us use the nutrition programs. I would like to contract with a neighbor to prepare a meal for the person across the street who is out of reach; and this can be done at minimum cost.

We just have to recognize the talents, the time, the system as it exists in a local community and make the most of it. I think too many times, there are too many miles between the legislative chamber and where the service is delivered. Consequently, the good intentions of the legislators are lost in the mechanisms of the transfer to the local community.

Senator CHILES. This is one of the great problems we have. We try to put some controls on a program and we over-control to where there is no flexibility. Then someone comes along with an inventive bent like you have, and puts together something that utilizes the local community, utilizes the retired skills that happen to be there, and all of the controls create problems and interferes with what you are trying to do. There is the other side. At some stage, we must have some kind of accountability for the money. There are areas in which we have just said, "Here is the money, you go and do exactly what you want," and the money has been flushed away, with few or no new programs developed. How do we deal with this?

Brother GEENEN. I have no problem with accountability. In fact, that is No. 1. The fact is that when people have ideas, and when they have ability to make things go, no one should put unnecessary obstacles in the way.

In my opinion, some of the budget requirements imposed upon us by AAA are unnecessary and extremely costly to implement; and more so, do not enhance the service to older people.

Senator CHILES. Thank you very much.

Senator HEINZ. Thank you, Senator Chiles.

Mr. Young, how many workers have participated in the DEK-Electro-sponsored training program that you have used?

Mr. YOUNG. Do you mean total, including the elderly and the young, and all different groups?

Senator HEINZ. No; just among the elderly, the seniors.

Mr. YOUNG. That is 118.

Senator HEINZ. Now, my understanding is that you receive no subsidy for job training from the Urban League or anyone else; is that correct?

Mr. YOUNG. That is correct.

Senator HEINZ. When an employee begins work, what is their average salary—is it above or below the $4 figure that you gave us in your testimony?

Mr. YOUNG. The figure is at the $4 mark.

Senator HEINZ. And does that figure increase after 6 months or 1 year, or after a while on the job, or does it stay the same?

Mr. YOUNG. Yes, it does. I hesitate to talk about it, because we are a competitive business, and when we start quoting prices and like that, it does lend itself to be heard by someone else who is in the same business.

Senator HEINZ. All we have to do is call up one of your employees.

Mr. YOUNG. That is true. But to answer your question, yes, there is a pay increase in the first 6 months.

Senator HEINZ. Now, is it accurate that your employees have received different benefits from nonsenior employees? Do they receive life insurance, health insurance, and pension?

Mr. YOUNG. No; we are unique in Pennsylvania, because we are part time, and because of that, we can utilize that different group which is the elderly and the aged. Also, economics deem that if we were to go in another direction, we might have to change the stance that we have right now. But the way it is right now, economically and feasibilitywise, it is working out very well.

Senator HEINZ. How does the job performance of title V workers compare to that of your other employees?

Mr. YOUNG. The type of feedback that we have from our local supervision within Pennsylvania states that they do as good a job as the total.

Senator HEINZ. Do they have a higher or lower rate of absenteeism than other regular employees?

Mr. YOUNG. Specifically, we have had only one problem that we have had to deal with with absenteeism. So on the whole, I would say that is very good.

Senator HEINZ. So, they are as good or better?

Mr. YOUNG. Yes.

Senator HEINZ. And that is also true of sick leave?

Mr. YOUNG. Yes, we are talking about absenteeism in any form.

Senator HEINZ. That is kind of encouraging, because the stereotype of the older workers is that they are more likely to be sick, and you are finding that that is not at all the way they perform.

Mr. YOUNG. No; like a lot of stereotypes, they do not prove the case.

Senator HEINZ. Thank you.

I think we have covered just about everything, so unless there are further questions, I am going to declare the meeting of the Special Committee on Aging adjourned.

[Whereupon, at 1:10 p.m., the committee adjourned.]

A P P E N D I X E S

Appendix 1

BRIEFING MATERIAL FOR HEARING

MEMORANDUM

TO: Members of the Special Committee on Aging
FROM: Committee Staff
RE: Overview of the Older Americans Act
DATE: April 25, 1981

TITLE II

What is the Title for?

Title II of the Act is primarily structural, in that it is the part of the Act which discusses the establishment of the functional units necessary to implement the Act. The Functional units which are created by the Act are the Administration on Aging, The National Information and Resource Clearing House for the Aging (a component of AoA) and the Federal Council on the Aging.

In addition to the above mentioned units, the Act also specifies several functions that must be carried out under the Act; namely, functions of the Administration of Aging, the administration of the Act, evaluation activities, reports, Joint funding of projects, advance funding, application of other laws, reduction of paper work, contracting and grant authority, and surplus property eligibility.

The part of this title which is most controversial and will be the subject to the current debate regarding reauthorization is that of the "Establishment of Administration of Aging" among other things the Act calls for the Administration on Aging to:

- Serve as the effective and visable advocate for the elderly
- Assist the Secretary in all matters pertaining to problems of the aged and aging.
- Stimulate more effective use of existing resources and available services for the aged and aging.
- Provide for the coordination of federal programs and activities.
- Review and comment on all departmental regulations and policies regarding community health and social service development for the elderly.

Brief History of the Organizational Structure Issue in the Act:

Even before the 1965 Older Americans Act was passed there was considerable debate over the appropriate placement of AoA in the Federal government system. As early as 1962, proponents for the Act were arguing for assurances that the new Federal agency would have high visibility within the executive branch. Some of the original sponsors of the bill had considered having such an agency located at the White House level to assure that it would not be subordinate to any agency or department.

To mediate strong opposition to a White House level placement from the executive branch, AoA was placed in the department of HEW. Over the years since 1965, many policy makers have questioned whether the agency can carry out its interdepartmental functions and serve as a Federal coordinator, spokesperson, and advocate for the elderly as well as impact on Federal programs and policies when it is placed within one Federal department.

The 1965 Act, placed AoA in HEW with most of the authority in the Secretary. That situation remained through three subsequent reauthorizations in 1967, 1969, and 1972. In 1973, the first demonstrable steps were taken to bring to fruition some of the expressions of concern that had been voiced in 1962. The Amendments of 1973 made major changes in the positioning of the AoA in HEW. Some of the changes were: the AoA was established in the Office of the Secretary, the Commissioner was made directly responsible to the Secretary, and the Commissioner was prohibited from delegating any of his functions to any other officer who was not directly responsible to him unless he first submitted a plan for such delegation to the Congress. The Administration opted to submit a plan that placed AoA in the Office of Human Development Services.

Since 1973 the language regarding the placement of AoA and the authority or the Commissioner was softened considerably and has remained unchanged for the last three re-authorizations. The 1978 Senate bill report stated that:

> The committee believes that there is some benefit in having the Commissioner on Aging within OHDS for purposes of coordinating programs under the Administration on Aging with those programs administered by the Public Services Administration, the Developmental Disabilities Office, the Office of Child Development, the Office of Youth Development, and the Rehabilitation Services Administration. The committee believes that bringing these programs together fosters increased coordination and cooperation, and gives the Commissioner on Aging greater insight into overall policy development and program interface. Thus, while no new action with respect to AOA's placement in OHDS was taken in connection with this bill, it is a matter of continuing interest to the committee.[7]

Citation of Relevant Area:

TITLE II—ADMINISTRATION ON AGING

ESTABLISHMENT OF ADMINISTRATION ON AGING [1]

SEC. 201. (a) There is established in the Office of the Secretary an Administration on Aging (hereinafter in this Act referred to as the "Administration") which shall be headed by a Commissioner on Aging (hereinafter in this Act referred to as the "Commissioner"). Except for title V, the Administration shall be the principal agency for carrying out this Act. In the performance of his functions, the Commissioner shall be directly responsible to the Office of the Secretary. The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner.

(b) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

FUNCTIONS OF ADMINISTRATION

SEC. 202. (a) It shall be the duty and function of the Administration to—

(1) [2] serve as the effective and visible advocate for the elderly within the Department of Health, Education, and Welfare and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities over all Federal policies affecting the elderly;

(2) serve as a clearinghouse for information related to problems of the aged and aging;

(3) assist the Secretary in all matters pertaining to problems of the aged and aging;

(4) administer the grants provided by this Act;

(5) [3] develop plans, conduct and arrange for research in the field of aging, and assist in the establishment of and carry out programs designed to meet the needs of older individuals for social services, including nutrition, hospitalization, preretirement training, continuing education, low-cost transportation and housing, and health services;

(6) provide technical assistance and consultation to States and political subdivisions thereof with respect to programs for the aged and aging;

(7) prepare, publish, and disseminate educational materials dealing with the welfare of older individuals;

(8) gather statistics in the field of aging which other Federal agencies are not collecting;

(9) stimulate more effective use of existing resources and available services for the aged and aging;

(10) [4] develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this Act;

(11) provide for the coordination of Federal programs and activities related to such purposes;

(12) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and nonprofit private organizations of programs for older individuals, with a view to the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(13) convene conferences of such authorities and officials of public (including Federal, State, and local agencies) and nonprofit private organizations concerned with the development and operation of programs for older individuals as the Commissioner deems necessary or proper for the development and implementation of policies related to the purposes of this Act;

(14) develop and operate programs providing services and opportunities as authorized by this Act which are not otherwise provided by existing programs for older individuals;

(15) carry on a continuing evaluation of the programs and activities related to the purposes of this Act, with particular attention to the impact of medicare and medicaid, the Age Discrimination in Employment Act of 1967, and the programs of the National Housing Act relating to housing for the elderly and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for older people;

(16) provide information and assistance to private nonprofit organizations for the establishment and operation by them of programs and activities related to the purposes of this Act; and

(17) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the purposes of this Act, and conduct and provide for the conducting of such training.

(b) In order to strengthen the involvement of the Administration in the development of policy alternatives in long-term care and to insure that the development of community alternatives is given priority attention, the Commissioner shall—

(1) develop planning linkages with health systems agencies designated under section 1515 of the Public Health Service Act (42 U.S.C. 300 l–4);

(2) participate in all departmental and interdepartmental activities which concern issues of institutional and noninstitutional long-term health care services development; and

(3) review and comment on all departmental regulations and policies regarding community health and social service development for the elderly.

(c) In executing his duties and functions under this Act and carrying out the programs and activities provided for by this Act, the Commissioner, in consultation with the Director of Action, shall take all possible steps to encourage and permit voluntary groups active in social services, including youth organizations active at the high school or college levels, to participate and be involved individually or through representative groups in such programs or activities to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways.

TITLE III

What is the Title for?

Title III authorizes grants to State agencies on aging for developing a comprehensive and coordinated delivery system of social services, nutrition services and multipurpose senior center facilities. To qualify for funds, the State agency must divide the State into separate geographic areas, known as planning and service areas, and establish when feasible, area agencies on aging for developing a comprehensive delivery system within specified geographic boundaries. As part of the delivery system, area agencies coordinate existing resources and foster the expansion and development of community services for the elderly. They only fund directly those services not already available in the community. Area agencies also serve as advocates for the elderly.

Brief History of the Program Emphasis in the Act:

In 1965, Title III of the OAA authorized Federal grants to state agencies on aging for making direct grants and contracts for community service demonstration projects to serve the elderly. Funds provided to states under this Title were to create a state agency on aging to plan, coordinate and develop services. In addition, the states were given authority to conduct training to address the special personnel needs required to carry out programs for the elderly in the state.

The Act was reauthorized in 1967 with little change. One technical amendment was to increase the proportion of funds allotted for administration of the Act from 10% to 15%. In 1969, states were assigned specific responsibility for statewide planning, coordinating, and evaluation services within their states. The 1969 amendments also introduced Areawide Model Projects for the development and operation of statewide, regional, metropolitan area, county, city, or other areawide model projects for the provision of services for or the creation of opportunities for, older persons.

The Amendments of 1972 dealt only with the establishment of the Title VII nutrition program and did not affect Title III at all. Amendments were next made in 1973 and involved fundamental changes in the Act and in Title III. These amendments further strengthened the states role in planning. At the same time, state agencies on aging had their role as the direct funding source of Federal dollars for community service projects reduced with a new emphasis placed on administration of area plans and development of comprehensive and coordinated systems for the delivery of social services. The areawide model projects program was amended to become a model projects program and states were required to designate sub-state or single state planning and service

areas. Area agencies on aging became decentralized bodies with the broad mandates of planning, coordinating, and pooling local resources as well as of funding a small number of gap-filling services.

In 1973 the AoA emphasized the need for services which would provide older people with access to other Title III services. Access services were defined as escort, outreach, transportation, and information and referral services. The 1974 amendments to the Act authorized specific sums to be paid in meeting the costs of transportation of older persons with special emphasis on providing supportive transportation in connection with nutrition projects.

The amendments of 1975 made additional changes in Title III. The primary changes were discussions of services to Indian tribes, the requirement that not less than 50% of state funds be spent for the provision of some or all of a list of services designed to assist older persons in leading independent lives and avoiding unnecessary institutionalization, special funds of state transportation projects, and added emphasis in Model Projects of omsbudsman services for residents of nursing homes and projects to meet the need of underserved elderly populations.

The Amendments of 1977 left Title III unchanged. With the 1978 amendments the main thrust was on efficiency and effectiveness. These amendments consolidated the grant program for social services, multipurpose service centers and nutrition services under Title III and the State and area agency structure. They also required a 3 year state and area plan which was expanded from the one year requirement. The 50% requirement was crystalized into 3 priority services: access services; in-home services; and legal services. The amendments further required states to use at least 6% of their social services allotment to establish and ombudsman program for nursing home residents.

The 1978 amendments permit state agencies rather than area agencies to directly award grants to project sponsors of congregate and home-delivered meals. Income derived from fees is used by project sponsors to increase the number of meals. There is a separate funding authority for congregate and home-delivered meals. States however, may transfer funds from one allocation to the other as they deem appropriate.

Citation of Relevant Areas:

TITLE III—GRANTS FOR STATE AND

COMMUNITY

PROGRAMS ON AGING[1]

PART A—GENERAL PROVISIONS

PURPOSE; ADMINISTRATION

SEC. 301. (a) It is the purpose of this title to encourage and assist State and local agencies to concentrate resources in order to develop greater

(B) develop and make the most efficient use of social services and nutrition services in meeting the needs of older individuals; and

(C) use available resources efficiently and with a minimum of duplication.

(2) The term "information and referral source" means a location where the State or any public or private agency or organization—

(A) maintains current information with respect to the opportunities and services available to older individuals, and develops current lists of older individuals in need of services and opportunities; and

(B) employs a specially trained staff to inform older individuals of the opportunities and services which are available, and to assist such individuals to take advantage of such opportunities and services.

(3) The term "long-term care facility" means any skilled nursing facility, as defined in section 1861(j) of the Social Security Act, any intermediate care facility, as defined in section 1905(c) of the Social Security Act, any nursing home, as defined in section 1908(e) of the Social Security Act, and any other similar adult care home.

(4) The term "legal services" means legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a nonlawyer where permitted by law, to older individuals with economic or social needs.

(5) The term "planning and service area" means an area specified by a State agency under section 305(a)(1)(E).

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

(7) The term "State agency" means the State agency designated by a State under section 305(a)(1).

(8) The term "unit of general purpose local government" means—

(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

(B) an Indian tribal organization.

capacity and foster the development of comprehensive and coordinated service systems to serve older individuals by entering into new cooperative arrangements in each State with State and local agencies, and with the providers of social services, including nutrition services and multipurpose senior centers, for the planning for the provision of, and for the provision of, social services, nutrition services, and multipurpose senior centers, in order to—

(1) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

(2) remove individual and social barriers to economic and personal independence for older individuals; and

(3) provide a continuum of care for the vulnerable elderly.

(b)(1) In order to effectively carry out the purpose of this title, the Commissioner [2] shall administer programs under this title through the Administration on Aging.

(2) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Labor, the Community Services Administration, the Department of Housing and Urban Development, the Department of Transportation, and such other agencies and departments of the Federal Government as may be appropriate.

PART B—SOCIAL SERVICES [62]

PROGRAM AUTHORIZED

SEC. 321.[63] (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for any of the following social services:

(1) health, continuing education, welfare, informational, recreational, homemaker, counseling, or referral services;

(2) transportation services to facilitate access to social services or nutrition services, or both;

(3) services designed to encourage and assist older individuals to use the facilities and services available to them;

(4) services designed to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards or to adapt homes to meet the needs of older individuals suffering from physical disabilities;

(5) services designed to assist older individuals in avoiding institutionalization, including preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, letter writing services, and other similar services designed to assist such individuals to continue living independently in a home environment;

(6) services designed to provide legal services and other counseling services and assistance, including tax counseling and assistance and financial counseling, to older individuals;

(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity and exercise;

(8) [64] services designed to provide health screening to detect or prevent illness, or both, that occur most frequently in older individuals;

(9) [64] services designed to provide preretirement and second career counseling for older individuals;

(10) [64] services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate the well-being of such individuals;

(11) [64] services which are designed to meet the unique needs of older individuals who are disabled; or

(12) any other services;

if such services meet standards prescribed by the Commissioner [65] and are necessary for the general welfare of older individuals.

(b) [66] (1) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities [67] to serve as multipurpose senior centers which shall be community facilities for the organization and provision of a broad spectrum of services, including provision of health, social, nutritional, and educational services and provision of facilities for recreational activities for older individuals.

(2) [68] Funds made available to a State under this part may be used, for the purpose of assisting in the operation of multipurpose senior centers, to meet all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

PART C—NUTRITION SERVICES [69]

Subpart 1—Congregate Nutrition Services

PROGRAM AUTHORIZED

SEC. 331. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

(1) which, 5 or more days a week, provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council;

(2) which shall be provided in congregate settings; and

(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

Subpart 2—Home Delivered Nutrition Services [79]

PROGRAM AUTHORIZED

SEC. 336. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week, provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide, each of which assures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

CRITERIA

SEC. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the Association of Area Agencies on Aging, the National Association of Title VII Project Directors, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.

TITLE IV

What is the Title for:

Title IV as it currently exists per the 1978 Amendments, provides authority to the Commissioner on Aging to make grants to states or other public or non-profit private agencies, organizations, or institutions and contracts for the purpose of:

- o developing and implementing a national manpower policy, attracting qualified persons to the field of aging, training personnel in the field of aging,
- o conducting research related to the implementation of the Act,
- o developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects,
- o developing comprehensive, coordinated systems of community long term care for older individuals,
- o supporting legal research, technical assistance, training, information dissemination and demonstration projects,
- o national impact demonstrations, and
- o multidisciplinary centers of gerontology.

While the 1978 amendments call for a Part D - Mortgage insurance and Interest Grants for Multipurpose Senior Centers, this part was never authorized.

Brief History of the Program Emphasis

Title IV as we know it today, is considerably different from the way it was conceived in 1965. At that time, Title IV was only for Research and Development Projects. In 1973, Training which had previously been Title V was consolidated with Research and Development to form a new Title IV - Training and Research. It was not until the 1978 amendment that Model Projects, which had previously been in Title III since 1969, was consolidated into Title IV.

In 1965, research and development projects were authorized to identify gaps in services and solutions to problems facing older persons. Since 1965 research grants have supported a wide range of projects including those relating to health care, housing, social services, retirement roles, and the needs of low income and minority elderly. As a result of these activities, Sec.701(a) of PL 92-258 states "The Congress finds that the research and development nutrition projects for the elderly conducted under Title IV of the Older Americans Act have demonstrated the effectiveness of, and the need for, permanent nationwide projects to assist in meeting

the nutritional and social needs of millions of persons aged sixty or older."

Since 1966, the AoA has awarded grants to colleges and universities and other public and private non-profit institutions and agencies to provide traineeships for students preparing for careers in the various fields relating to the aged and to upgrade skills of persons already employed in the field of aging.

For the purpose of attracting qualified persons to the field of aging, the 1975 amendment made it clear that higher educational institutions may have programs of less than four years and still be eligible for grants.

The model projects program started as a specific program to establish areawide models and provided for funding to states for that purpose in 1969. In 1973, area agencies were created in the Act and the "areawide" focus of model projects was reduced. In 1978, the program was moved to Title IV and its mission further expanded from model projects to demonstrations.

The 1978 amendments authorized the Commissioner to award grants for supporting legal research, technical assistance, training, information dissemination, and demonstration projects to expand or improve the delivery of legal services to elderly individuals. The 1978 amendments also authorized the Commissioner to reserve not more than 15% of the model project appropriation for developing projects of national significance.

Mortgage insurance and annual interest grants for Multipurpose Senior Centers first appeared in the Act in 1973. This authority was continued with the 1978 amendments. Similarly, Multidisciplinary Centers of gerontology appeared in the Act in 1973 and were amended in 1978. Support for these centers came out of recommendations from the 1971 White House Conference on Aging.

Citation of Relevant Areas:

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS[1]

PART A—TRAINING[2]

STATEMENT OF PURPOSE[3]

SEC. 401. (a) The purpose of this part is to develop and implement a national manpower policy for the field of aging. Such a policy shall reflect the present and future needs for training personnel, including personnel involved in advocacy and leadership, in all programs serving the elderly recognizing the unique health, transportation, and housing problems of the elderly, the continual growth of the elderly population of the United States, and the high incidence of disabilities within such population. The national manpower policy established under this part shall require that training programs shall give priority to training personnel responsible for carrying out projects relating to multipurpose senior

centers under part B of title III and for carrying out programs under part C of title III.

(b) The policy required by this title shall be developed and implemented by the Commissioner in cooperation with other departments and agencies of the Federal Government, including the Public Health Service, the Health Care Financing Administration, the Social Security Administration, the National Institutes of Health, and in particular the National Institute on Aging, the Administration for Public Services, the Rehabilitation Services Administration, the Veterans' Administration, the Department of Labor, the Department of Housing and Urban Development, and the Department of Transportation, State employment agencies, State and area agencies on aging, and other appropriate agencies.

PART B—RESEARCH AND DEVELOPMENT PROJECTS [15]

DESCRIPTION OF ACTIVITIES

SEC. 411.[16] (a) To support research efforts related to the implementation of this Act together with areas of concern relating to the living conditions of the elderly,[17] the Commissioner may make grants to any public or nonprofit private agency, organization, or institution and contracts with any [18] agency, organization, or institution or with any individual for the purpose of—

PART C—DISCRETIONARY PROJECTS AND PROGRAMS [22]

DEMONSTRATION PROJECTS

SEC. 421.[23] (a) The Commissioner may, after consultation with the State agency in the State involved, make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization within such State for paying part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects which will demonstrate methods to improve or expand social services or nutrition services or otherwise promote the well-being of older individuals. The Commissioner shall give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of the rural elderly.[24] Such projects shall include alternative health care delivery systems, advocacy and outreach programs, and transportation services.[25]

(b) In making grants and contracts under this section, the Commissioner shall give special consideration to projects designed to—

SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE

SEC. 422. (a)(1) The Commissioner may make grants to selected State agencies designated under section 305(a)(1), and, in consultation with State agencies, selected area agencies on aging designated under section 305(a)(2)(A), institutions of higher education, and other public agencies and private nonprofit organizations, associations, and groups to support the development of comprehensive, coordinated systems of community long-term care for older individuals, with special emphasis upon—

(A) services designed to support alternatives to institutional living; and

(B) the assessment of need, the development of a plan of care, and the referral of individuals, in the delivery of long-term care services, including non-institutional and institutional services, where appropriate.

SPECIAL DEMONSTRATION PROJECTS ON LEGAL SERVICES FOR OLDER AMERICANS

SEC. 423. (a) The Commissioner may make grants to and enter into contracts with public and private nonprofit agencies or organizations in order to—

(1) support legal research, technical assistance, training, information dissemination, and other support activities to agencies, organizations, institutions, and private law firms that are providing, developing, or supporting pro bono or reduced-fee legal services to older individuals; and

(2) support demonstration projects to expand or improve the delivery of legal services to older individuals with social or economic need.

(b) Any grants or contracts entered into under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(15) are met.

(c) From the sums appropriated under section 451 for each fiscal year, not less than $5,000,000 shall be reserved to carry out the provisions of this section.

NATIONAL IMPACT DEMONSTRATIONS

SEC. 424. (a) The Commissioner may carry out directly or through grants or contracts—

(1) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of social services, nutrition services, or multipurpose senior centers or otherwise promoting the well-being of older individuals; and

(2) dissemination of information activities related to such programs.

(b) An amount not to exceed 15 percent of any sums appropriated under section 451 may be used for carrying out this section.

UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS [28]

SEC. 425. The Secretary may, after consultation with the appropriate State agency designated under section 305(a)(1), make grants to pay for part or all of the costs of developing model projects which show promise of relieving older individuals of the excessive burdens of high utility service and home heating costs. Any such project shall give special consideration to projects under which a business concern engaged in providing home heating oil to the public, or a public utility, provides home heating oil or utility services to low-income older individuals at a cost which is substantially lower than providing home heating oil or utility services to other individuals.

PART D—MORTGAGE INSURANCE AND INTEREST GRANTS FOR MULTIPURPOSE SENIOR CENTERS [29]

MORTGAGE INSURANCE AUTHORIZED

SEC. 431. (a) It is the purpose of this part to assist and encourage the provision of urgently needed facilities for programs for the elderly.

(b) For the purpose of this part the terms "mortgage", "mortgagor", "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.[30]

(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during acquisition, alteration, renovation, or construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new multipurpose senior center, including equipment to be used in its operation, subject to the following conditions:

ANNUAL INTEREST GRANTS

SEC. 432. (a) To assist nonprofit private agencies to reduce the cost of borrowing from other sources for the acquisition, alteration, renovation, or construction of facilities for multipurpose senior centers, the Secretary

PART E—MULTIDISCIPLINARY CENTERS OF GERONTOLOGY [31]

SEC. 441. The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology, and gerontology centers of special emphasis (including health, income maintenance, housing, service delivery and utilization, preretirement and retirement, and long-term care and alternatives).[32] A grant may be made under this section only if the application therefor—

TITLE V

Purpose:

Title V promotes part-time job opportunities in community service activities for unemployed, low-income persons who are 55 years old or older and who have poor employment prospects. The law provides 90 percent Federal funding (up to 100 percent in disaster or economically depressed areas) for this program.

Brief History

The Department of Labor administers the Title V Community Service Employment Program for Older Americans. The program is modeled after the Operation Mainstream program which was first funded in 1965 under the Economic Opportunity Act. Operation Mainstream authorized jobs for poor and chronically unemployed primarily in rural areas. The Department of Labor enters into contractual agreements with organizations that sponsor employment projects for older workers. Under the 1973 amendments, funds were apportioned among the states based on the states' elderly population. The 1975 amendments revised the formula to allocate funds more equitably to states with lower per capita income. The 1978 amendments fostered intrastate coordination between national contractors and state agencies on aging and increased the proportion of funding to state governments so that states could take a more active role in creating public service employment for older workers. Employment programs are located in universities, private nonprofit agencies, city and county governments, and Indian tribal organizations for creating jobs.

In fiscal year 1980 the average number of slots for persons in training numbered 52,000 and a 54,000 level is anticipated for fiscal years 1981 and 1982. In fiscal year 1980, 80,000 persons participated in the program and 116,000 to 126,000 persons are expected to participate in fiscal years 1981 and 1982.

The bulk of the program is managed by eight national organizations. They include:

1. Green Thumb, Inc., Washington, DC, an agency of the National Farmers' Union.

2. National Council on the Aging, Washington, DC

3. National Council of Senior Citizens, Washington, National Council of Senior Citizens, Washington, DC

4. National Retired Teachers Association/American Association of Retired Persons, Washington, DC

5. U.S. Department of Agriculture, Forest Service, Washington, DC

6. National Center of Black Aged, Washington, DC

7. National Association for Spanish Speaking Elderly, Los Angeles, CA

8. National Urban League, New York, NY

In addition, State agencies on Aging across the nation manage SCSEP programs.

Citation of Relevant Area:

TITLE V [1]—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS [2]

SHORT TITLE

SEC. 501. This title may be cited as the "Older American Community Service Employment Act".

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 502. (a) In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter in this title referred to as the "Secretary") is authorized to establish an older American community service employment program.

(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements with public or private nonprofit

agencies or organizations, including national organizations,[3] agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless he determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor;

(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being rained, including a reasonable subsistence allowance;

(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

(3)[4] The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

(d)(1) • Whenever a national organization or other program sponsor conducts a project within a State such organization or program sponsor shall submit to the State agency on aging a description of such project to be conducted in the State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State including the distribution between urban and rural areas within the State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested individuals and make a written determination of his findings and decision.

(e) • The Secretary, in addition to any other authority contained in this title, may enter into agreements designed to assure the transition of individuals employed in public service jobs under this title to employment opportunities with private business concerns. The Secretary, from amounts reserved under section 506(a)(1)(B) in any fiscal year, may pay all of the costs of any agreement entered into under the provisions of this subsection.

Issues Regarding Reauthorization of Title V

o The Administration has not proposed any changes in the budget authority for the Title V Older Americans Community Service Employment Program. The budget authority for the program remains at $277 million for fiscal years 1981 and 1982. Budget outlays have remained unchanged amounting to $265 million for fiscal year 1981 and $277 million for fiscal year 1982.

o According to testimony before the Senate Committee on Labor and Human Resources, Albert Angrisani, Assistant Secretary of Labor stated that the Administration is proposing a one year extension of the authorization in order that Title V authorization coincide with CETA authorization.

o The Federal Council on Aging's report of March 27, 1981 recommends:

(1) The Title V Program should be continued and expanded in its present form.

(2) No national limits should be set on the proportion of enrollees being trained for transition to unsubsidized jobs. Such decisions should be based on local conditions.

o There is no requirement in the law for unsubsidized placement of Title V enrollees in private sector jobs. Department of Labor regulations set a goal for each project of 15 percent to be placed in such jobs during each project year.

Congressional Research Service
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Washington, D.C. 20540

SELECTED ISSUES IN REAUTHORIZATION OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

Authorizations for appropriations of the Older Americans Act programs expire September 30, 1981. This paper provides some background information on the Act and briefly describes selected issues which may be before the 97th Congress as it considers reauthorization of the Act.

The Older Americans Act sets out ten policy goals aimed at improving the lives of older Americans in areas of income, health, housing, employment, retirement, and community services (Title I), and provides the legislative basis for the creation of the Administration on Aging (AoA) within the Office of the Secretary of the Department of Health and Human Services (DHHS) (Title II). The Act also establishes authority for the following: development of programs to assist older persons (especially those who have the greatest social or economic needs) through grants to States, which in turn award funds to area agencies on aging (Title III), and grants to Indian tribal organizations (Title VI), for community planning and social, nutrition, and senior center services; development of research, demonstration, and training programs in the field of aging (Title IV); and development of community service employment programs for low income persons 55 years of age or older (Title V).

The total fiscal year 1980 appropriations level under the Act was $919 million, with the largest share directed at Title III, grants for State and area agencies on aging activities--almost $600 million. In fiscal year 1979 there were approximately 600 area agencies on aging located throughout the nation.

The Act has been amended eight times since its inception in 1965 with significant amendments in the structure of the program in 1973 creating authority for area agencies on aging, and in 1978 strengthening the State and local programs for social, nutrition, and senior center services. The most recent amendments to the Act in 1978 included the following provisions:

- o Consolidation of the social services, senior centers, and nutrition services portions of the Act (which were previously authorized under separate titles, Title III and Title V, and Title VII, respectively, and under separate administrative authorities) in an expanded Title III. The net result is that funding for these services is integrated into one administrative structure--that is, administered through area agencies on aging.
- o Targeting of funds on certain priority services--access (including transportation, outreach and information and referral), in-home services, and legal services--by requiring that 50 percent of each area agency's allotment be expended on these services. Although each area agency is required to expend some funds on each of these services, the distribution of funds is left up to local determination. The legislation allows the State agency on aging to waive the 50 percent rule if the area agency can demonstrate that service funds from other sources meet the needs of older persons in any of these categories of services.
- o Addition of a separate authorization for a home-delivered meals program which did not previously exist.
- o Increase of five percentage points in the non-Federal matching requirement for social and nutrition services beginning in fis-

cal year 1981. The fiscal year 1981 non-Federal matching rate requirement is 15 percent compared to the FY 1980 rate of 10 percent.

- o Establishment of a separate title and funding authority for social and nutrition services for federally recognized Indian tribal organizations.
- o Provision of a three-year planning cycle for State and area agencies on aging. Previously State and area agencies were required to develop annual plans for submission to AoA and State agencies on aging, respectively.
- o Establishment of a Statewide nursing home ombudsman program through funds from the State's social services allotment.
- o Provision that there be improved coordination between State agencies on aging and national contractors under the Community Service Employment Program for Older Americans (Title V of the Act); increase in the proportion of funding to State governments under the program; increase in the income eligibility requirements under this program from the Office of Management and Budget (OMB) poverty level to 125 percent of the poverty level (or from $3,790 to $4,737 in 1979 for a non-farm one person family unit).

POTENTIAL ISSUES FOR CONSIDERATION IN REAUTHORIZATION

The points below describe items of interest in review of the Act during 1981, including the time period for the Act's reauthorization, AoA's organizational status within the Department of Health and Human Services (HHS), selected issues related to Title III of the Act (the State and area agency on aging program), and a current General Accounting Office (GAO) survey of area agencies on aging.

1. Extent of amendments during 1981 and time period for reauthorization. Certain factors might be considered in determining the extent of amendments to the Act during 1981 and the time period which would apply to the Act's reauthorization. Although the Act was amended in 1978, final regulations to implement the major amendments, that is, those which relate to the State and area agency program under Title III, were not published in final form until March 31, 1980. There is some belief that since the State and area agencies on aging have not had a great deal of operational experience in the context of these new regulations, the Act should not be substantively altered at this time, but be extended for no longer than a one or two year period in order to allow sufficient time for testing the full effect of the 1978 amendments. 1/

Another factor to be considered in evaluating the extent of amendments and time period for reauthorization is the occurrence of the decennial White House Conference on Aging in December 1981, several months after expiration of the Act's authorization. There is some belief that because much information will be gathered through White House Conference activities during 1981, the reauthorization process should reflect any recommendations of the Conference.

In August 1980 the Carter Administration submitted a draft bill to the 96th Congress which would have extended authorizations of appropriations for programs under the Act for two years through fiscal year 1983 and proposed no major amendments.

1/ It should be pointed out that despite the delay in publishing the final regulations each State agency on aging submitted to the Administration on Aging a series of amendments to its State plan to bring its program into compliance with the 1978 amendments.

2. Administration on Aging organizational status. A perennial issue in the Older Americans Act amendment process is a review of the organizational status of AoA within the Department of HHS. There are those who believe that because of the magnitude of issues in the field of aging and because the goals of the Older Americans Act intersect with many other Federal programs, AoA's organizational status should be elevated to allow greater visibility and leverage for aging programs and policy. Although there was some consideration given to modifying the organizational status of AoA in the 1978 amendments, Congress believed that there is some benefit in having AoA remain within the Office of Human Development Services (OHDS) in HHS so that it can coordinate its programs with other human services programs. However, the issue was not completely closed. The Senate Committee on Human Resources reported that "while no new action with respect to AoA's placement in OHDS was taken in connection with this bill, it is a matter of continuing interest to the Committee." (Committee Report No. 95-855, May 15, 1978, p. 5)

3. Issues Related to Title III

Effect of consolidation of the social services, senior centers, and nutrition services programs into one title and administrative structure. The 1978 amendments which combined the social services, nutrition services, and senior center programs into one title and administrative structure under Title III of the Act represented a major change in the structure of the aging network programs at the State and local levels. Previously Title III social services were funded through area agencies, Title VII nutrition services were funded through area agencies on aging or directly by State agencies on aging, and Title V senior center grants were awarded directly by the Commissioner on Aging. The consolidation of these separate titles into one title was intended to foster

greater coordination among the Older Americans Act programs with area agencies on aging responsible for managing funds for social, nutrition, and senior centers within their respective communities. It was assumed that consolidation of the service programs would increase the visibility and significance of area agencies' scope of operations.

Because of the significance of the restructing of Title III and its consequences for State and area agencies on aging, Congress may review the effect of this provision (to the extent it can be evaluated during 1981) to determine if additional changes are advantageous. Impact on program coordination at the State and local levels and on area agency administrative responsibilities are among the issues likely to be reviewed.

Effect of requirement for priority services. As stated above, the 1978 amendments require that area agencies spend at least 50 percent of their social service allotments on access, in-home, and legal services. The Senate Committee on Human Resources was concerned that "there should be a concentrated effort to better meet the most crucial needs of the elderly" and despite a requirement imposed in 1975 that funds under the program be directed at certain priority services "very few services are provided in-depth in local communities. Rather, there appears to be a scatter-gun attempt to provide a wide array of services, none of which adequately serves the needs of the elderly in the community." (Committee Report No. 95-855, May 15, 1978, p. 10)

As mentioned above, the 50 percent rule may be waived in those circumstances where the need for services is being met through non-Older Americans Act funding sources. Congress may evaluate this most recent provision on priority services in order to determine its effectiveness in providing adequate focus to these services.

General Accounting Office Survey

In its consideration of issues on the reauthorization of the Older Americans Act the 97th Congress may review preliminary results of a current GAO survey of 142 area agencies on aging in 36 States, expected to be available during 1981. The survey, requested by Senator Eagleton, Chairman of the Subcommittee on Aging, Committee on Labor and Human Resources, 96th Congress, is focused on determining how well area agencies on aging have carried out their 1973 legislative mandate to develop a comprehensive coordinated system of services for the elderly. The survey is focused specifically on determining to what extent area agencies have established institutional relationships to (1) identify service gaps and evaluate whether existing services meet identified needs; (2) initiate, expand, or improve service delivery systems by integrating service organizations/resources, and (3) increase non-Older Americans Act resources to meet the needs of older persons.

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BY THE COMPTROLLER GENERAL

Report To The Chairman Special Committee On Aging United States Senate OF THE UNITED STATES

An Evaluation Of The Organizational Relationship Of The Office Of Human Development Services And The Administration On Aging

GAO believes that certain functions of the Department of Health and Human Services' Office of Human Development Services violate the Older Americans Act. The Department disagrees with this position.

GAO recommends that the Secretary of Health and Human Services make organizational changes to comply with the Older Americans Act. If the Secretary finds that complying with the act adversely affects the Department's effectiveness and efficiency, he should initiate legislation to amend the act.

FPCD-81-41
APRIL 20, 1981

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-199491

The Honorable H. John Heinz III
Chairman, Special Committee on Aging
United States Senate

Dear Mr. Chairman:

In a letter dated April 24, 1980, the former Chairman, Senate Special Committee on Aging, requested that we review the Department of Health and Human Services' Office of Human Development Services (OHDS). OHDS supervises program agencies, such as the Administration on Aging. In subsequent discussions with his office, we were asked to determine if

--OHDS staff units have infringed on and usurped the responsibilities of the Commissioner on Aging, who heads the Administration on Aging;

--staff units' placement over the Administration has resulted in duplicate functions and excessive administrative burdens; and

--OHDS has attempted to systematically find out its workload requirements and staff needs as well as those of the Administration on Aging.

The Secretary of Health and Human Services (formerly the Department of Health, Education, and Welfare) had the full legal authority to create OHDS, place it under an Assistant Secretary, and make it responsible for program agencies, such as the Administration on Aging. However, OHDS' present organizational structure (see app. II) violates provisions of 42 U.S.C. 3011(a) (section 201(a) of the Older Americans Act, as amended) which state:

"The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner."

Specifically, the structure violates the provisions because

--grants and contract officers located in OHDS' Office of Management Services are not directly responsible to the Commissioner on Aging even though they perform many grant and contract administration functions regarding the Administration on Aging and

--financial management responsibility for the Administration on Aging's discretionary and formula grants is vested in regional office personnel who are not directly responsible to the Commissioner on Aging.

We have not identified any adverse effects associated with these violations. We found no evidence of duplicate functions or excessive administrative burdens. However, because the Congress intended for the above functions to be carried out by persons directly responsible to the Commissioner on Aging, we are recommending actions to deal with these matters.

OHDS officials generally believe that their staff units and program units, including the Administration on Aging, are insufficiently staffed. The Office lacks a work force planning system for determining staff needs, which is not unique in this regard. A Federal policy and standards for work force planning are needed throughout the Government. We have recommended in a prior report that the Office of Management and Budget and the Office of Personnel Management take action on this issue.

The Department of Health and Human Services disagrees that its organizational structure violates the provisions, but we believe the basis for its opinion is invalid. Appendix I contains specific questions and answers on our interpretation of the violations as well as other matters related to OHDS and the Administration on Aging.

OBJECTIVES, SCOPE, AND METHODOLOGY

We interviewed officials in OHDS staff units and present and former officials in the Administration on Aging to get their views on whether staff units are (1) usurping and infringing on the Administration on Aging's responsibilities, (2) duplicating functions of this Administration, or (3) have imposed excessive administrative burdens. We also asked these officials about their efforts to systematically determine their staff needs. We interviewed officials in the other program units to inquire about some of the same issues as they relate to their programs. We also interviewed

Department of Health and Human Services officials about their evaluation of OHDS and the Department's efforts to help OHDS determine its staff needs.

We reviewed documentation related to the 1973 creation of the Office of Human Development (now OHDS) and OHDS' 1977 and 1980 reorganizations. We reviewed OHDS' delegations of authorities and functional statements dated September 29, 1980, to determine the staff units' and some of the Administration on Aging's responsibilities.

To determine if OHDS' staff units were imposing excessive administrative burdens on the Administration on Aging, we reviewed (1) documentation on OHDS' review processes for its fiscal year 1981 budget and the program units' plans for discretionary funds, (2) OHDS' grant and contract procedure manuals, (3) fiscal year 1979 and 1980 reading files, and (4) 1979 contract files and documentation on the processing of calendar year 1979 contracts and fiscal year 1980 grants.

Our review of duplicate functions and excessive administrative burdens was limited because OHDS was still undergoing phases of its 1980 reorganization, and our review covered the period June to December 1980. OHDS' first functional statements covering this reorganization to show the responsibilities of its units were not finalized until September 29, 1980, and the remaining statements were not finalized until January 27, 1981. Also, staff were meeting to clarify their roles, and certain procedures and guidelines were to be revised or established. Thus, it was too early to fully assess these areas.

We reviewed the Older Americans Act of 1965, as amended (Public Law 89-73, July 14, 1965, 42 U.S.C. 3001 to 3057), to determine the legality of certain authorities and responsibilities of the Secretary of Health and Human Services; the Assistant Secretary for Human Development Services and his staff units; and the Commissioner, Administration on Aging. (See app. I.)

BACKGROUND

In 1973 the Secretary of Health, Education, and Welfare created the Office of Human Development. In 1977, the Office was reorganized and renamed OHDS. It administers a wide range of human services and development functions designed to assist in alleviating the problems of the elderly, the handicapped, children, and Native Americans.

OHDS, which was again reorganized in May 1980, is headed by an Assistant Secretary and consists of three headquarters staff units and four program units.

Headquarters staff units	Program units
Office of Management Services	Administration on Aging
Office of Policy Development	Administration for Children, Youth and Families
Office of Program Coordination and Review	Administration on Developmental Disabilities
	Administration for Native Americans

A current organizational chart and descriptions of OHDS functions are in appendix II.

The Administration on Aging, headed by the Commissioner on Aging, is the only program unit created by legislation. The other program units were created administratively by the Secretary, generally by consolidating several programs that served the same target population. For example, the Administration for Children, Youth and Families is a consolidation of several programs, such as the Head Start and Child Abuse and Neglect Programs. (See app. II.)

The Older Americans Act of 1965 (Public Law 89-73, July 14, 1965) created the Administration on Aging and placed it within the Department of Health, Education, and Welfare. Further, to insure some independence for the Administration on Aging, the Older Americans Act in 1974 was amended to prohibit the Commissioner on Aging's functions from being delegated to individuals not directly responsible to the Commissioner. This prohibition does not apply to routine administrative functions for the Administration on Aging, such as budgeting and personnel administration, which are not specified in the act as functions of the Commissioner. However, it does apply to the policymaking and nonpolicymaking responsibilities related to functions clearly given to the Commissioner on Aging by the Older Americans Act, such as the administration of grants and contracts and financial management for grants.

CERTAIN GRANT AND CONTRACT OFFICERS' ADMINISTRATIVE FUNCTIONS VIOLATE THE OLDER AMERICANS ACT

Section 2(a) of the 1974 amendments to the Older Americans Act (Public Law 93-351, July 12, 1974, 88 Stat. 357) amended

section 201 of the act to prohibit the Commissioner on Aging's functions from being delegated to individuals not directly responsible to the Commissioner. However, since 1977, OHDS' discretionary grants and contracts administration functions, including those for the Administration on Aging, have been centralized in one of its staff units--the Office of Administration and Management (now the Office of Management Services). Although this staff unit performs many grant and contract administration functions regarding the Administration on Aging, it is directly responsible to the Assistant Secretary of Human Development Services, not to the Commissioner on Aging.

The Department of Health and Human Services believes that OHDS grant officers may carry out their functions as long as the functions which relate to policy matters are advisory and not decisionmaking. It believes that such grant officers may make decisions on routine administrative matters and may participate in a supportive, advisory role, short of decisionmaking on matters involving policy.

However, OHDS grant officers share many responsibilities with the Administration on Aging. They and the Administration on Aging are jointly responsible for administering the grantee's project performance and for monitoring project operations to assure that the Government's interest is protected. The grant officer also serves as the contact for all official written communications with the grantee which commit or may result in committing OHDS to a change in the amount of the grant, the grant budget, or any terms and conditions of the grant.

In a similar situation, OHDS' contract officer, who is not responsible to the Commissioner on Aging, is the authorized official to sign the Administration on Aging contracts on behalf of the Federal Government and has final authority to approve or disapprove program units' contracts, including those for the Administration on Aging. We believe this also violates the same statutory restriction.

The Administration on Aging's use of OHDS grant and contract administrative support services is not necessarily precluded by 42 U.S.C. 3011(a) as long as the Administration controls such support services. However, OHDS duties in these areas reflect the Administration on Aging's apparent lack of control over its programs. The grant and contract officers carry out their responsibilities for all OHDS program units, not just for the Administration on Aging. Accordingly, they are directly responsible to the Assistant Secretary and not to the Commissioner on Aging. Thus, these procedures violate the nondelegation provisions of the Older Americans Act.

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OHDS FINANCIAL MANAGEMENT FOR
GRANTS VIOLATES THE ACT

As part of OHDS' 1980 reorganization, financial management responsibilities for the Administration on Aging's discretionary 1/ and formula 2/ grants were centralized with that of other OHDS units in the newly created regional offices of fiscal operations. While financial management for discretionary grants was centralized in the regional offices before 1980, financial management for formula grants was not. The regional offices of fiscal operations report to the regional administrator who is directly responsible to the Assistant Secretary and not the Commissioner on Aging. These offices plan and direct the fiscal monitoring of the Administration on Aging grantees. Thus, OHDS is violating the Older Americans Act because financial management responsibility for the Administration on Aging is vested in regional office personnel not directly responsible to the Commissioner on Aging.

The Department of Health and Human Services has a contrary opinion and has construed the restriction in 42 U.S.C. 3011(a) as prohibiting only the delegation of policymaking functions. Under the Department's interpretation, the Secretary has authority to approve the delegation of any nonpolicymaking function of the Commissioner to officers who are not responsible to the Commissioner.

It is possible that a system could be devised that would permit the Administration on Aging tc use OHDS regional offices' fiscal monitoring capabilities without relinguishing the control required by 42 U.S.C. 3011(a). However, a nebulous policy or nonpolicy distinction, such as that made by the Department, with no apparent control by the Administration on Aging over "nonpolicy" matters, does not in our view comply with the clear mandate of 3011(a).

1/Discretionary grants refer to Federal financial assistance in support of a project which legally permits the appropriate program office head to approve the project, the project period, the grantee, and the amount of the award.

2/Formula grants are awarded under Title III of the Older Americans Act, as amended, "Grants For State and Community Programs on Aging." These grants are awarded according to a statutory formula based on the States' population aged 60 and over.

NO ADVERSE EFFECTS HAVE BEEN IDENTIFIED WITH THESE VIOLATIONS

We have not identified any adverse effects associated with the violations discussed in this report. We found no evidence of duplicate functions or excessive administrative burdens being imposed on the Administration on Aging. Generally, officials in the Administration on Aging and in the staff units expressed no problem with established processes. However, some Administration on Aging officials expressed concern that the Commissioner on Aging has to go through the Assistant Secretary for Human Development Services, rather than straight to the Secretary of Health and Human Services. We believe the direct reporting line from the Commissioner on Aging to the Assistant Secretary does not violate the law.

We noted that documents related to OHDS' creation and reorganizations indicate that these changes were designed to further enhance the efficiency and effectiveness of OHDS human development functions. However, we did not find any evidence of this nor of similar benefits that could or could not be accomplished within the law.

OHDS HAS NOT SYSTEMATICALLY DETERMINED ITS STAFF NEEDS

The Administration on Aging and other OHDS officials generally question the adequacy of staffing levels in both staff and program units. Before 1977, between 93 and 103 positions were transferred from the Administration on Aging to OHDS to provide supportive services (e.g., personnel, budget, and planning) to the Administration on Aging and other program units. As a part of the 1980 reorganization, OHDS transferred 40 positions from its former Administration of Public Services to the Administration on Aging. However, even with this increase, Administration on Aging officials still believe they are insufficiently staffed.

The OHDS' Chief of the Budget Analysis Branch stated that the Department of Health and Human Services has been reluctant to allocate additional positions to program units because the Department was not getting adequate justifications from the program units.

Because they lack a systematic, formal process for determining their staff needs, we could not determine if the Administration on Aging or other OHDS units were sufficiently or insufficiently staffed. This would have required a lengthy detailed review which we did not perform. Such a review would not have been appropriate since the reorganization was still in progress.

Work force planning could be an effective, internal management tool in making decisions about the maximum use of available human resources in the most cost-efficient manner. In addition, work force planning can provide more sound and reliable data for personnel justifications in budget submissions. Rising costs and increasing competition for limited funds make it essential that work force requirements and personnel management decisions be based on appropriate and credible work force planning systems and procedures. We recommended in our report "Federal Work Force Planning: Time For Renewed Emphasis" (FPCD-81-4, Dec. 30, 1980) that the Office of Management and Budget and the Office of Personnel Management

--establish a Federal policy and standards for work force planning and

--encourage Federal agencies to make work force planning an integral part of their overall management planning system.

CONCLUSIONS

Because OHDS is violating the Older Americans Act in the administration of certain grant and contract administration functions and financial management functions, it must make changes to correct these matters. Contrary to the Department of Health and Human Services' opinion, we believe the functions (policymaking and nonpolicymaking) of administering grants and contracts and financial management for grants have been vested by statute in the Commissioner. Thus, delegation of these functions to offices not directly responsible to the Commissioner violates the statutory restriction.

We do not know if the changes that are necessary for OHDS to comply with the Older Americans Act will be more or less beneficial. However, if the Secretary finds that his complying with the Older Americans Act adversely affects his efforts to achieve effectiveness and efficiency, he should document any adverse impact and, if necessary, initiate legislation to amend the act.

RECOMMENDATION

We recommend the the Secretary of Health and Human Services revise OHDS' organization to discontinue the delegation of the Commissioner on Aging's functions, which allows

--OHDS grant and contract officers to perform administrative functions regarding the Administration on Aging's discretionary grants and contracts and

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--OHDS regional offices of fiscal operations to handle financial management functions for the Administration on Aging's discretionary and formula grants.

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As you requested, we did not take the additional time to obtain agency comments on the matters discussed in this report. However, we provided copies of our legal opinions to the Department of Health and Human Services.

As arranged with your office, we are sending copies of this report to the Secretary of Health and Human Services; the Assistant Secretary for Human Development Services; the Commissioner, Administration on Aging; the Director, Office of Management and Budget; the Director, Office of Personnel Management; and the Chairmen, House Committee on Government Operations and Senate Committee on Governmental Affairs. Also, as arranged, copies will be sent to the Chairmen, Subcommittee on Child and Human Development, Senate Committee on Labor and Human Relations; House Select Committee on Aging; Subcommittee on Labor, Health, Education, and Welfare, House Committee on Appropriations; and the House Committee on Education and Labor.

Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations. This written statement must be submitted to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report. A written statement must also be submitted to the House and Senate Committees on Appropriations with an agency's first request for appropriations made more than 60 days after the date of the report. Also, we are asking the Secretary to submit to your Committee a copy of his written statement on actions taken on our recommendation.

Sincerely yours,

Milton J. Socolar

Acting Comptroller General
of the United States

QUESTIONS AND ANSWERS ON THE
ORGANIZATIONAL STRUCTURE OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES' (HHS')
OFFICE OF HUMAN DEVELOPMENT SERVICES (OHDS)
AND THE ADMINISTRATION ON AGING (AoA)

Question #1: What is the legal basis for OHDS and did the Congress ever envision a structure such as OHDS?

Answer: President Eisenhower created the Department of Health, Education and Welfare (HEW), the predecessor of HHS, through the transmission to Congress of Reorganization Plan No. 1 of 1953 which became effective April 11, 1953, 18 F.R. 2053, 67 Stat. 631, 42 U.S.C. 202 note. Section 6 of Reorganization Plan No. 1 reads as follows:

> "The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department."

Under this section the Secretary of HHS has authority to assign the performance of functions vested in him by law to subordinate officers or organizations within his Department provided such assignment is not inconsistent with law. This allows the Secretary to reorganize his Department and redistribute the performance of functions vested in him by law. Additional authority for intra-departmental reorganizations is contained in 5 U.S.C. S. 301 which provides as follows:

> "The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property * * *." (Emphasis supplied.)

Accordingly, the Secretary of HHS has authority to reorganize his department through the redistribution of functions for which he is responsible among his subordinate officers and administrative organizational elements. Under this authority the Secretary of HEW was empowered to create OHDS, place it under an Assistant Secretary, and make it responsible for the immediate control and supervision of program agencies such as the Administration on Aging (AoA). While we cannot say that the Congress envisioned OHDS, it clearly envisioned that the Department's structure might be changed for administrative reasons.

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Question #2: The Commissioner of the Administration on Aging reports directly to the Assistant Secretary, OHDS. Does this meet the statutory requirement in section 201(a) of the Older Americans Act, as amended (42 U.S.C. 3011(a)), that "* * * the Commissioner shall be directly responsible to the Office of the Secretary"?

Answer: Pursuant to the terms of the statute, the Commissioner must be directly responsible to the Office of the Secretary. Thus, there should be no organizational element interposed between the Commissioner and the Office of the Secretary. This direct organizational linkage condition appears to be satisfied by the current organization inasmuch as the Statement of Mission, Organization, Function, and Delegation of Authority for OHDS (section DA.10, 43 F.R. 33327, July 31, 1978) states that OHDS is located within the Office of the Secretary. Hence, in reporting to the Assistant Secretary, OHDS, the Commissioner is "directly responsible to the Office of the Secretary."

Originally, in section 201 of the Older Americans Act of 1965, (Public Law 89-73, July 14, 1965), the Administration on Aging was merely established within the Department and no specific provisions were made regarding to whom the Commissioner, a Presidential appointee, was to be responsible.

The House Report on the Older Americans Act of 1965 indicated that the intent of the House of Representatives was that the AoA would enjoy equal status within the organizational structure of HEW as other high level program agencies with the Department such as the Social Security Administration. The House Report contained the following explanation:

> "The Administration on Aging, headed by a Commissioner appointed by the President, subject to confirmation by the Senate, would have coequal status with the Social Security and Welfare Administrations. Thus; the older population would be meaningfully represented in the upper echelons of the Federal Government.
>
> "The proposed Administration on Aging would establish a specific high-level agency with power and responsibility to take action. It would have full-time responsibility, backed by professional knowledge and ability, and the strong desire to represent effectively in the Federal Government our 18 million older Americans." H.R. Rep. No. 145, 89th Cong., 1st Sess. 7 (1965).

The above quoted legislative history manifests congressional intent that the Commissioner be accorded sufficient status within the HHS organizational structure so as to have the requisite authority and responsibility to implement the important mission of the AoA.

The requirement in section 201(a) of the Act as amended that the Commissioner be directly responsible to "the Office of the Secretary" was added by the Comprehensive Older Americans Services Amendments of 1973. The House version of the 1973 amendments (H.R. 71, 93rd Congress) provided that the Commissioner was to be "directly responsible to the Secretary and not to or through any other officer." The House Committee on Education and Labor explained this provision as follows:

> "Legislative history clearly demonstrates that the intent of Congress when it first passed the Older Americans Act in 1965 was to create an entity highly visible in the Department of Health, Education, and Welfare to serve as a focal point for dealing with the problems of the aged. In line with this objective, the office was to be headed by a Presidentially appointed Commissioner. Yet, in 1967, AoA was placed within the Social and Rehabilitation Service with the Commissioner on Aging reporting to the Administrator of the Social and Rehabilitation Service, who is not a Presidential appointee." H.R. Rep. No. 93-43, 7-8 (1973).

The House provision regarding the Commissioner's organizational position within the Department was modified by a House-Senate compromise amendment to S. 50, the Senate version of the 1973 legislation:

> "The compromise amendment provides that the Commissioner shall report to the Office of the Secretary, rather than to the Secretary himself." 119 Cong. Rec. 13158 (1973).

The compromise amendment was adopted.

Thus, the legislative history clearly shows it was not the intent of the Congress that the Commissioner be directly responsible to the Secretary personally, inasmuch as that proposal was specifically rejected. Rather, the Congress expressed its intent in the plain language of the amended section 201 that the Commissioner is to be directly responsible to the Office of the Secretrary as is now the case. Insofar as the Congress' intent was that the Commissioner report to a Presidential appointee (see H.R. Rep. No. 93-43,

quoted above), the present organization achieves that goal also since the Commissioner reports to the Assistant Secretary, OHDS.

Question #3: Legally, to whom should the regional staff on aging be reporting (i.e., the Regional Administrator for OHDS or directly to the Commissioner)?

Answer: Because AoA is a statutory agency and the Commissioner is by law the agency head, AoA regional staff are directly responsible to the Commissioner. The work of the AoA regional staff is assigned and supervised by officials subordinate to the Commissioner. On the other hand, the OHDS Regional Administrator is responsible for coordinating OHDS programs for a specific area. Therefore AoA regional staff may be required to coordinate their activities with the OHDS Regional Administrator.

Question #4: Senate Special Committee on Aging staff that initiated this investigation believe that functions assigned to the Commissioner in the Older Americans Act of 1965, as amended, 42 U.S.C. Chapter 35, have been delegated to other officers in OHDS who are not directly responsible to the Commissioner. If such delegations have been made, do they violate the provision of 42 U.S.C. 3011(a) that: "The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner"?

Answer: A delegation of functions of the Commissioner to OHDS officials not directly responsible to the Commissioner would violate the restriction in 42 U.S.C. 3011(a).

Functions may be delegated in a formal or informal manner. Formal delegations may be made, for example, through a Statement of Mission, Organization, Function and Delegation of Authority which is published in the Federal Register. On the other hand informal delegations may be made by verbal orders, by office memoranda, or by custom and usage. In order to determine whether a function has been informally delegated, a determination must be made on a case by case basis.

Question #5: In a memorandum dated July 28, 1980, from the Commissioner on Aging to the Assistant Secretary, OHDS on discretionary grant and contract authorities, the Commissioner disagrees with a position by the Assistant Secretary concerning grants policy. No formal reply was made to the Commissioner's memorandum and it appears that the memorandum was withdrawn

based on an informal agreement that a reply was not necessary. What is your opinion on the assertions made in the Commissioner's memorandum?

Answer: The Assistant Secretary had indicated that "OHDS is the granting agency." The Commissioner disputes this and points out that under the Older Americans Act, 42 U.S.C. Chapter 35, the authority to make grants and contracts incident to that program is vested in him and delegation of such authority to officers outside his control is prohibited. He recognizes that actually the grant and contract officers who authenticate his grants and contracts are not under his control. However, he seems to be pointing out that their acts are ministerial in nature and that the actual administration of program grants and contracts is within his authority. He concludes with a warning that any OHDS usurpation of his authority in this area could lead to undesired consequences:

> "I think that disregard of these legal facts will lead to a legal determination that the grants officer and the contracts officer on AoA contracts must be a direct subordinate of the Commissioner if their signature is to be binding."

The issue is whether grant and contract officers who sign AoA grants and contracts should be directly responsible to the Commissioner so that all aspects of AoA grants and contract administration will be within his control. Based on our review of applicable law and regulations, we believe that such officials are required to be directly responsible to the Commissioner.

Under the provisions of 42 U.S.C. 3012, the AoA has been charged with the duty and function to "administer the grants provided by this chapter." Numerous statutory provisions of 42 U.S.C. Chapter 35 explicitly empower the Commissioner to make grants or contracts for various purposes. By the same token, the Secretary, HHS, appears to have been empowered to make only one type of grant in the chapter, under 42 U.S.C. 3035f, for utility and home heating cost demonstration projects. Accordingly, the Congress appears to have clearly distinguished between functions granted to the Commissioner and functions granted to the Secretary under the Act, with the intention that functions vested in the Commissioner would in fact be performed by him or by officials under his direct supervision.

As explained in the preceding answers, the provisions of 42 U.S.C. 3011(a) preclude the delegation of the Commissioner's functions to officials not directly responsible to him. Inasmuch as the Congress in various statutory provisions has specifically tasked the Commissioner with making

grants and contracts in the furtherance of the Older Americans Act program objectives, the Secretary is prohibited from delegating the functions of authenticating and administering grants and contracts to officials within OHDS who are not directly responsible to the Commissioner.

Notwithstanding the statutory restrictions detailed above, certain grant and contract administration functions are being performed by officials not responsible to the Commissioner. A review of the OHDS Grants Administration Staff Manual, promulgated in 1978, indicates that the procedure set forth therein is applicable to all program offices within OHDS, presumably including AoA. The manual defines Grants Officer as follows:

> "As used in this manual, this term means either the OHD[S] Grants Officer or the regional office staff member who has been appointed Grants Officer by the Assistant Regional Director for Human Development."

The above quoted definition certainly indicates that AoA as a program office within OHDS must rely on a Grants Officer within OHDS to perform Grants Officer functions for Older Americans Act programs. The manual states on page 4-1 that: "The Grants Officer is designated as the 'Receiving official' for all OHD[S] discretionary grant programs." On pages 11-1, 11-2, 11-6, it further states that:

> "The Grants Officer and the cognizant OHD[S] program office(s) have the joint responsibility of administering the grantee's project performance to assure that adequate progress is being made toward achieving the goals of the project.
>
> * * * * *
>
> "The Grants Officer shall serve as the mandatory control and receipt point for all official written communications with the grantee which commit or may result in committing OHD[S] to a change in the amount of the grant, the grant budget, or any terms and conditions of the grant.
>
> * * * * *
>
> "Grants Officer shall sign with the concurrence of the program Office head, all correspondence relating to the business aspects of the grants. (The program office head may relinquish to the Grants Officer his prerogative of concurrance (sic) on such correspondence if so desired).

* * * * *

"Both the Grants Officer and cognizant program office are jointly responsible for the continuing monitoring and surveillance of project operations to assure that the Government's interest is protected and that the grantee is adhering to the terms and conditions of the grant award."

From the above quoted material, it is clear that the OHDS Grants Officer performs many grant administration functions regarding AoA grants. However, the function of administering such grants has been vested by statute in the Commissioner. Inasmuch as the Secretary is prohibited by 42 U.S.C. 3011(a) from delegating these functions to officials outside the Commissioner's control, we are of the opinion that the de facto delegation of these functions to the OHDS Grants Officer violates that statutory restriction. Apparently a similar situation exists regarding AoA program contracts wherein there has been a de facto delegation of AoA contract administration functions to the OHDS Contract Officer, which violates the same statutory restriction.

As suggested in our answer to Question #7, the use of OHDS administrative support services by AoA is not necessarily precluded by 3011(a) so long as AoA control is maintained over such support services. As presently drafted, however, the manual provisions discussed above reflect the apparent lack of AoA control in the administration of AoA programs.

Question #6: Does the consolidation of AoA's financial responsibility for its formula grants with all other HDS financial responsibility violate the non-delegation provisions of 42 U.S.C. 3011(a) (section 201(a) of the Older Americans Act)?

Answer: Yes. The consolidation of financial management responsibilities was described in an April 25, 1980, memorandum from the Assistant Secretary for Human Development Services to the Secretary of the Department as follows:

"All financial management responsibilities in each region would be consolidated in a new Office of Fiscal Operations (OFO) under the Regional Administrator (RA). Program administrations would retain policy control and allocation authority over their formula grant activities, but the OFO would plan and direct fiscal monitoring of the grantees. This is the way discretionary grants and contracts are handled now. Current financial management staffs of the [Administration of Public Services]

(APS) and AoA would be transferred with their functions to the OFO, and no new financial management positions would be approved for any of the categorical program units in the field."

The restriction on the delegation of the Commissioner's functions is contained in 42 U.S.C. 3011(a) as follows:

"The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner."

We believe delegation of functions of the Commissioner to OHDS officials not directly responsible to the Commissioner would violate this restriction.

The HHS legal staff has a contrary opinion and has construed the restriction in 42 U.S.C. 3011(a) as prohibiting only the delegation of policymaking functions. Under the HHS interpretation the Secretary has authority to approve the delegation of any nonpolicymaking function of the Commissioner to officers who are not responsible to the Commissioner.

The legal staff bases its interpretation on the legislative history of a comparable prohibition in 29 U.S.C. 702(a) against the delegation of functions from the Commissioner of Rehabilitation Services. The Rehabilitation Act Amendments of 1974 (Public Law No. 93-516, Dec. 7, 1974, 88 Stat. 1617) contained the restriction, which stated: "* * * The functions of the Commissioner [of Rehabilitation Services] shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner." The legislative history of this provision (in S. Rep. No. 93-1297, 93rd Cong., 2d Sess. 32) indicates that the prohibition is not intended to prevent "* * * the centralized administration of certain routine administrative services by the Department * * * in support of (Rehabilitation Services Act) RSA functions and programs in the categories of budget formulation, grant administration, financial administration and personnel administration."

The Department has applied this legislative history to support its interpretation of the restriction against delegation of the functions of the Commissioner on Aging contained in 42 U.S.C. 3011(a), a statute that is unrelated to that legislative history. The best evidence of congressional intent regarding 42 U.S.C. 3011(a) can be found in the language of that statute and its legislative history and not in the legislative history of unrelated statutes.

The starting point in every case involving construction of a statute is the language of the statute itself. Greyhound Corp. v. Mt. Hood Stages, Inc., 437 U.S. 322 (1978). Where a statute plainly expresses the will of the Congress in language that does not permit or require a strained interpretation, the words thereof may not be extended or distorted beyond their plain popular meaning. Adams v. Morton, 581 F. 2d 1314 (1978). Section 3011(a) clearly states that the restriction is against any delegation of the functions of the Commissioner on Aging. This is significant inasmuch as the restriction in 29 U.S.C. 702(a) states instead that "The functions of the Commissioner of Rehabilitation Services shall not be delegated * * * both with respect to program operation and administration * * *." Unlike section 3011(a), which explicitly prohibits any delegation of functions, the legislative history behind section 702(a) indicates that not all delegations of functions are prohibited. Accordingly, the word "any" in section 3011(a) should be read as prohibiting all delegations of functions.

Moreover, the legislative history of section 3011(a) confirms that Congress intended that none of the functions of the Commissioner on Aging should be delegated to officers outside his control regardless of whether such functions involved policymaking responsibilities. This view is supported by Senate Report No. 932, 93rd Cong., 2d Sess. 8, which accompanied H.R. 11105, a bill which was the derivative source of Public Law 93-351 (July 12, 1974, 88 Stat. 357) which amended the Older Americans Act of 1965.

Prior to this amendment, section 3011(a) had authorized the Secretary of the Department to permit the delegation of the Commissioner's functions to officials not directly responsible to the Commissioner so long as the Secretary submitted a plan to Congress for such delegation and consulted with the appropriate committees. Section 2 of Public Law 93-351 amended 42 U.S.C. 3011(a) by deleting this procedure for the delegation of the Commissioner's functions.

The Senate Report noted that the Secretary had been attempting to implement a plan for delegating certain of the Commissioner's functions to the Department's Regional Directors in 10 regions throughout the country. In order to preclude such delegation, the Senate Committee on Labor and Public Welfare proposed this amendment of section 3011(a). The Report stated that if the Secretary's planned delegation to Regional Directors "* * * should be in effect when this bill is enacted, the committee amendment would require the Commissioner to modify the delegation so that none of his functions are delegated except to officers directly responsible to him." (Emphasis supplied.)

In this connection the Report reads as follows:

> "By affirming the status of the Commissioner as the official responsible for carrying out programs authorized by the Act, and by seeking to enhance the status of the Administration on Aging with HEW, the Congress intended to remedy the fragmentation and lack of centralized purpose that was the case prior to 1973. It was expected that out of this would emerge a national policy for coordinating the delivery of services to the elderly, with responsibility for implementation of this policy to be clearly lodged in an official answerable to the Congress.
>
> "The proposed delegation to HEW Regional Directors runs directly contrary to these goals of the 1976 legislation. It would again fragment responsibility."

This statement clearly shows that Congress intended to establish an absolute ban on the delegation of the Commissioner's functions to officials outside his control.

The floor debate on this provision is also instructive. Senator Beall, who was opposed to the amendment, argued as follows:

> "* * * we are not talking about delegating authority for making policy. The policymaking decisions and authority for establishing regulations will always remain with the Commissioner here in Washington. What we are talking about is the flexibility that the Commissioner should have in delegating the administrative responsibility to people at the regional level who are constantly in contact with the Governors of the various States and the mayors of the various cities where these programs are placed." 120 Cong. Rec. 20003 (1974).

Senator Beall thus indicates that if the then existing delegation authority were to be repealed, the delegation of nonpolicymaking functions of the Commissioner to officials outside of his control would be prohibited. This is additional evidence that, by the subsequent repeal of that authority by Public Law 93-351, Congress intended to prohibit the delegation of nonpolicymaking functions as well as policymaking functions.

Question #7: Do you agree with the HHS opinion that AoA's routine administrative functions can be centralized in OHDS without violating 42 U.S.C. 3011(a)?

Answer: As indicated in our answer to question #6, 42 U.S.C. 3011(a) must be construed as prohibiting the Secretary from approving any delegation of the Commissioner's functions to officials outside his control regardless of whether such functions are policymaking or nonpolicymaking. It is possible that a system could be devised that would permit the AoA to use the fiscal monitoring capabilities of the Office of Fiscal Operations without relinquishing the control required by 42 U.S.C. 3011(a). However, a nebulous policy or non-policy distinction such as that discussed in the HHS legal memorandum, with no apparent control by AoA over "non-policy" matters, does not in our view comply with the clear mandate of 3011(a).

Question #8: A memorandum from HHS' General Counsel to the Assistant Secretary, OHDS, dated August 26, 1980, deals with delegations of authority to resolve audit findings. What is your viewpoint as to the legal interpretation presented in this document?

Answer: We agree with the HHS General Counsel's analysis and conclusions that the Secretary of HHS, by her May 2, 1980 memorandum on resolution of audit findings, did not violate the restriction in 42 U.S.C. 3011(a) concerning the delegation of the AoA Commissioner's functions.

The Secretary's memorandum directed that certain improvements be made in HHS procedures for resolving audit findings. Under the new directive, proposed resolutions of audit exceptions that exceeded $100,000 and were less than 85 percent of the auditor's recommended disallowance were required to be approved by the Heads of Principal Operating Components, such as the Assistant Secretary, OHDS, or their first line Deputies for operations. Authority to approve proposed resolutions of audit exceptions of lesser amounts (or of amounts over $100,000 which are 85 percent or more of the recommended disallowance) could be delegated to program managers.

The Commissioner, AoA, questioned whether the Secretary's directive violated the provisions of the Older Americans Act, 42 U.S.C. 3011 et seq., that authorize the Commissioner, AoA, to administer the program and restrict the delegation of his authority.

The General Counsel, HHS, responded that the Secretary's memorandum neither impinged on the statutory authority of the Commissioner nor relieved him of any of his administrative or program responsibilities. The General Counsel justified these conclusions as follows:

"We have concluded that the Secretary's instructions do not require a delegation of any authority of the Commissioner and, therefore, are not affected by section 201(a) of the Older Americans Act. Those instructions merely require approval by, in this case, the Assistant Secretary for Human Development Services of a proposed action by the Commissioner. This arrangement is consistent with the instruction in section 201(a) that '[I]n the performance of his function, the Commissioner shall be directly responsible to the Office of the Secretary. "The Assistant Secretary for Human Development Services is in the Office of the Secretary and is the Office through which the Commissioner on Aging report to the Secretary. [Footnote deleted.]

"There is nothing in section 201(a) of the Older Americans Act that prohibits actions of the Commissioner from being made subject to approval within the Office of the Secretary. The

Congressional concern in enacting section 201(a) was the contrary, namely, that the functions of the Commissioner on Aging were being inappropriately delegated to lower level offices in the Department.

* * * * *

"* * * The Secretary's May 2 memorandum does not require the delegation of functions of the Commissioner to an officer not responsible to him. It simply requires decisions of the Commissioner with respect to certain audit matters to be approved at a higher level within the Office of the Secretary. This arrangement is completely consistent with the restrictions in section 201(a).

"The fact that program responsibility for the Aging program is lodged by statute in the Commissioner, and that delegations to officials not responsible to him are prohibited, does not lead to the conclusion that the Commissioner is an independent agency responsible to no higher authority. Under section 201(a), the Administrating (Sic) on Aging and its Commissioner are organizationally placed within the Office of the Secretrary in the Department Of Health and Human Services. As such, like other components of the Department, they are subject to the overall supervision and direction of the Secretary, as provided in Section 1 of Reorganization Plan No. 1 of 1953."

We find that the HHS General Counsel's explanation is correct and the Secretary's directive did not violate the provisions of the Older Americans Act as contained in 42 U.S.C. 3001 et. seq. The Secretary has independent authority to perform audits of programs within his Department. It is he and not the Commissioner who delegates this authority to the auditors. Also, under 42 U.S.C. 3017, the Secretary and not the Commissioner has been charged with the responsibility of evaluating the effectiveness of Older Americans Act programs.

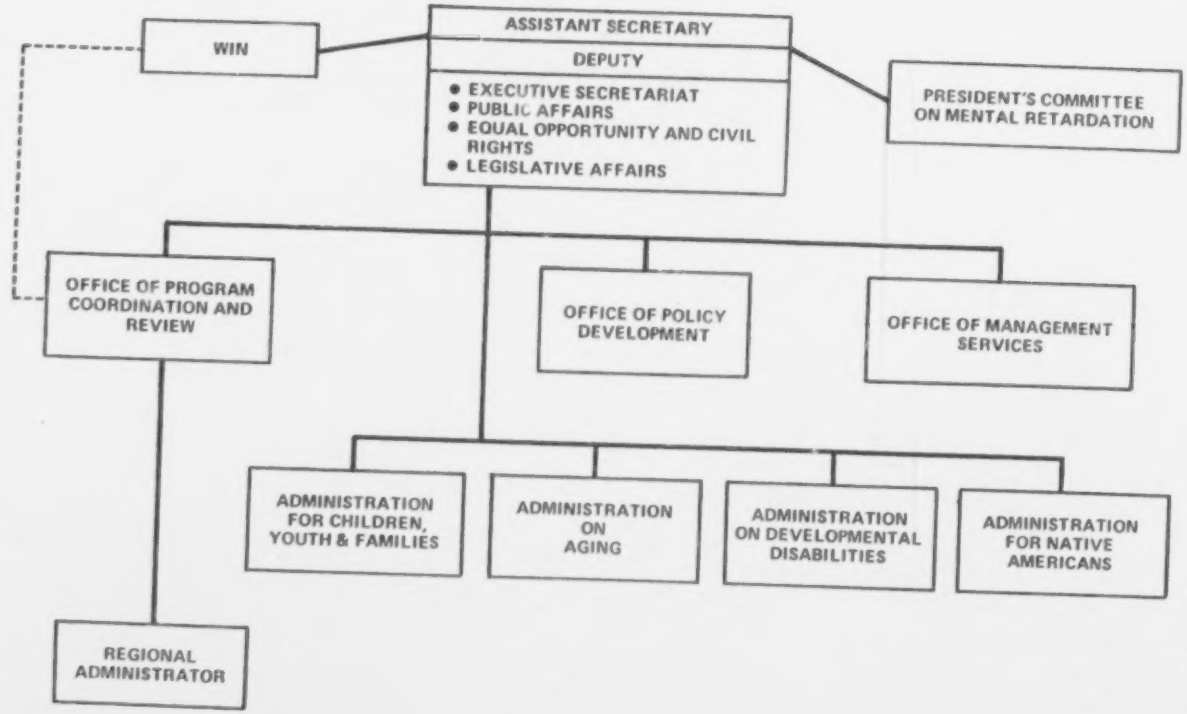
Question #9: What is the appropriate Federal role in the administration of Federally-funded but State-run Older Americans Act programs?

Answer: Under 42 U.S.C. 3025, a designated State agency develops an annual State Older Americans plan in order to be eligible for Federal grants. State plans must conform to criteria set forth in regulations promulgated by the Commissioner. The plan is submitted to the Commissioner for approval and such approval is granted for State plans that satisfy statutory and regulatory requirements. The Commissioner then makes grants from the State's allotment for programs submitted by the State for Federal funding. Therefore, the State agency is the exclusive administrator of the State plan and programs.

Under 42 U.S.C. 3017, the Secretary, HHS is required to measure and evaluate the effectiveness of all programs under the Older Americans Act. Until he has developed evaluation standards for proposed programs, he may not make grants to fund the programs.

From the foregoing it is clear that the States are charged with the responsibility of developing and administering plans and programs. The Federal role is to insure that States comply with the statute and the terms of their grants and to evaluate the effectiveness of all programs it funds.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF HUMAN DEVELOPMENT SERVICES [1]



[1] Organizational structure after reorganization in May 1980.

APPENDIX II

SUMMARY OF OHDS STAFF AND PROGRAM UNITS RESPONSIBILITIES

STAFF UNITS

The three major headquarters staff units are each headed by a director who reports directly to the Assistant Secretary for OHDS. The staff units perform a variety of staff and administrative functions:

--The Office of Policy Development is responsible for formulating the OHDS policy which provides direction in establishing agency goals and objectives. It serves as the focal point for policy planning and for managing of the policy development process. In addition, it manages the planning system and provides technical assistance to program administrators in initiating and overseeing the implementation of an OHDS policy.

--The Office of Program Coordination and Review is responsible for assuring coordination in the management of all service programs administered by OHDS. It provides leadership, management oversight, direction, coordination, and performance evaluation for regional administrators. Additionally, it administers OHDS funds to the States under title XX of the Social Security Act (Social Security Amendments of 1974, Public Law 93-647, January 4, 1975).

--The Office of Management Services provides leadership and direction to administrative and management activities throughout OHDS, including: budget, finance, personnel, grants and contracts, procurement, material and facilities management, management systems, management reporting analysis, data processing, program data systems, and similar administrative supporting services.

PROGRAM UNITS

Each principal program unit is directed by a commissioner who reports directly to the Assistant Secretary for OHDS. The program units have the following responsibilities:

--The Administration on Aging is the principal agency charged with implementing the Older Americans Act. Its program efforts are aimed primarily at the Nation's low-income and minority elderly people. Both the nutrition program and the development of community services systems are geared toward keeping

these people--as well as the physically and mentally impaired elderly people--out of institutions. The nutrition program is designed to provide elderly Americans with low-cost, nutritious meals, served primarily in congregate settings.

--The Administration for Children, Youth, and Families serves all American families and their children from infancy through adolescence. It administers the Head Start sections of the Head-Start Follow Through Act, the Child Abuse Prevention and Treatment Act, and the Runaway Youth Act. It also administers the child welfare services research and demonstration program under title IV-B of the Social Security Act. It awards grants and contracts for innovative programs and supports research relating to early childhood and day care, youth development, child abuse and neglect, foster care, adoption, and other child welfare and family services.

--The Administration on Developmental Disabilities assists States in increasing the provision of quality services to persons with developmental disabilities through the development and implementation of a comprehensive State plan.

--The Administration for Native Americans assists Native Americans to achieve the goal of econonmic and social self-sufficiency by providing direct and flexible funding (as authorized under the Native American Programs Act of 1974) to Native American tribes, Alaskan villages, organizations serving Native Hawaiians, urban Indian organizations, and historical Indian communities.

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Appendix 2

MATERIAL RELATED TO HEARING

ITEM 1. TEN RECOMMENDATIONS FOR THE 1981 REAUTHORIZATION OF THE OLDER AMERICANS ACT. DEVELOPED FOR THE NATIONAL ASSOCIATION OF COUNTIES BY THE NATIONAL ASSOCIATION OF COUNTY AGING PROGRAMS

INTRODUCTION

County government has traditionally had a large, direct role in the well-being of older Americans. Today counties administer approximately one-third of all area agencies on aging. In other areas, counties operate aging offices which combine local monies and funds from regional area agencies on aging to serve their aging citizens. Counties also operate approximately 800 nursing homes and other extended care facilities. Over half of the home health agencies in this nation are operated by county health departments. In many states counties contribute substantially to services funded by Medicaid or Title XX of the Social Security Act.

Because of this multi-faceted involvement in the well-being of the elderly, counties are deeply interested in the reauthorization of the Older Americans Act. Services funded by this act form a vitally important component of a service network that counties provide to thier older citizens. Therefore the National Association of Counties (NACo)* and its affiliate organization, the National Association of County Aging Programs (NACAP)** would like to offer the following ten suggestions which county officials believe will greatly enhance the effectiveness and efficiency of this Act in assisting county governments to serve their older citizens in the next few years.

We at NACo understand that reauthorization of the Older Americans Act is under severe time constraints this year. Nevertheless, most, if not all, our suggestions have been discussed with other organizations representing local government or the aged. We believe, therefore, that our suggestions could be incorporated into this act without causing controversies which would delay the reauthorization.

However, concerns or questions arise, please do not hesitate to contact Ron Gibbs, NACo's associate director for Human Resources.

1. Require Representation of Local Elected Officials on Policy-Making Boards of Private Area Agencies on Aging

   At present Section 306(a) 6 G of the act requires area agencies on aging to "establish an advisory council of older individuals (and) ... representatives of older persons, local elected officials, and the general public..."

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*NACo is the only national organization representing county government in America. Its membership includes urban, suburban, and rural counties joined together for the common purpose of strengthening county government to meet the needs of all Americans. By virtue of a county's membership, all its elected and appointed officials become participants in an organization dedicated to the following goals: improving county government; serving as the national spokesman for county government; acting as a liaison between the nation's counties and other levels of government; and, achieving public understanding of the role of counties in the federal system.

**NACAP is an organization of county elected officials and designated county aging program administrators in counties which are members of NACo.

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In 1978 NACo believed that such a requirement would be sufficient to assure the responsiveness of area agencies on aging to older persons and to the public sector which has considerable interest in and responsibility for the well-being of the aged. Unfortunately this has not always been the case. Under the current arrangement AAA staff are still free to ignore the recommendations of the advisory committee. Consequently NACo strongly urges that Congress require that the policy-making boards of private AAA's include at least one elected official or his or her designated representative. (By policy-making board we mean the board of directors or its equivalent. COG's and public sector AAA's obviously already have local elected officials on thier policy-making boards.) NACo and NACAP believe that such representation of the local public sector would be a minimal burden - certainly far less than was required of Health Systems Agencies - and would serve to strengthen AAA's that presently are not well linked into the public sector.

Such a requirement, in our opinion, would be legal, for similar requirements were placed on health systems agencies, community action agencies, etc. in the past. However, we would not be adverse to language permitting a waiver by the state if extreme organizational or legal difficulties would be encountered.

2. Consolidate Title III-B and III-C and eliminate priorities under Title III-B.

We wholeheartedly endorse the Administration's proposal to consolidate III-B and III-C and eliminate priorities under III-B. The need for flexibility in this area has been growing each year as funding has slowed. If necessary, we can provide numerous examples of difficulties and waste that the lack of flexibility is causing at the local level.

On the other hand, inflexible requirements imposed by a state are no better than requirements imposed in Washington. NACo strongly urges that the requirement (Section 307(a) 1) that state plans be based on area plans be maintained and, if possible, strengthened.

3. Length of Reauthorization

We believe that a two-year reauthorization would be ideal. It would coincide with three-year plans begun in 1980 and would allow enough time to implement recommendations of the White House Conference on Aging.

4. Make ombudsman program optional

Again, the need for flexibility is considerable to stretcth existing dollars during inflationary times. In some highly rural states, such as Alabama, this seemingly small program uses up funds

that many at the local level feel could be more effectively utilized. Larger states, however, would likely retain the program. However, NACo believes that each state should have the option of choosing whether or not an ombudsman program is the best use of its limited funds.

5. Require Area Plans to Address Long-term care needs and to include both interrelated goals and plans of other local planning agencies.

The 1978 amendments contained some initiatives toward those confined in institutions that we believe are good, and which should be built upon.

First, we believe that a continuum of care for the elderly must be a primary goal of planning for the aged. Therefore no artificial gap or division should exist between planning for the well and planning for the frail elderly. Thus AAA plans must address long-term needs of the community. Second, some area plans have established objectives but no real over-all strategies. In addition, little or no information about how other local plans and strategies may relate to or augment the AAA plan is available in the area plan. We certainly do not want to place burdensome bureaucratic paperwork on local planners. Nevertheless we believe that a general reminder from Congress that AAA's (a) should develop a strategy that includes long-term care and (b) should not operate separate from other planners in a community would be salutary.

6. Retain current language that restricts (with a possibility of a waiver) direct provision of services by area agencies on aging.

7. Experiment with model approaches on distributing jobs funded under Title V.

Counties are concerned that jobs under Title V are not optimally distributed. We believe that better coordination with statewide planning is desirable and would urge that incentives be provided to a state to develop methods of improving planning and distribution of these jobs. We would also support any increased emphasis on public sector involvement in this program.

8. Require local approval of training projects funded by Administration on Aging if such training is directed exclusively to local service providers or agency staff.

Occasionally training has been conducted in areas where insufficient notice has been given to area agencies on aging. Such undercutting of local planning could be stopped by requiring AAA sign-off on local training. However, conferences or training sessions directed at a regional or national audience should not be included under this restriction.

9. Maintain Title IV research and demonstration program under the Administration on Aging.

NACo believes that increased responsibilities on those at the state and local level inherent in consolidation, etc. require the maintenance of existing technical assistance to those in the field. Therefore, for example, we strongly oppose mandating legal services for the elderly in the Act, but we also believe that AoA should continue to support the National Senior Citizens Law Center, which has provided technical assistance to the many local communities that wish to have special legal services for the aged. (On the other hand, we believe that $5 million for legal services demonstration projects will be excessive - given the limited over-all funding.) Likewise NACo finds existing projects supported by AoA which assists minority elderly, area agencies, and state agencies plus those projects that assist county, city and state governments to be vitally important in improving the level of efficiency and effectiveness of the network of services for the aged. NACo recommends therefore that Title IV be provided as much financial support as possible, that existing projects which assist those on the "firing line" at the level be continued, and that the Administration on Aging continue to administer these funds.

10. Authorize sufficient funding to allow for the continued growth and dispersion of the American older population.

Funding for services provided under this act should - at a minimum - address two aspects of the elderly population: (1) The aged population is constantly increasing. (2) The elderly are increasingly dispersed into suburbs and areas which are more difficult (and expensive) to serve than areas in central cities where the elderly were formerly concentrated. Furthermore assure that future funding is increased sufficiently to allow the purchase of foodstuffs to remain at least at current levels.

ITEM 2. STATEMENT OF THE PENNSYLVANIA ASSOCIATION OF AREA AGENCY ON AGING DIRECTORS

THE OLDER AMERICANS ACT OF 1965 AND THE AMENDMENTS TO THE ACT HAVE PROVIDED THE AGING NETWORK WITH AN ACCEPTABLE VEHICLE FOR THE PLANNING, DEVELOPMENT, AND IMPLEMENTATION OF A COMPREHENSIVE, COMMUNITY-BASED SYSTEM FOR THE DELIVERY OF AGING SERVICES TO THE 60+ ELDERLY OF PENNSYLVANIA.

THE RECOMMENDATIONS WHICH ARE INCLUDED IN THIS STATEMENT FOR THE RECORD REFLECT THE CONCENSUS OF THE FORTY-NINE (49) DIRECTORS OF PENNSYLVANIA'S AREA AGENCIES ON AGING. THE COMPOSITE EXPERIENCE OF THIS GROUP IN IMPLEMENTING THE OLDER AMERICANS ACT IS REFLECTED IN THE FOLLOWING POSITIONS.

AS A RESULT OF THE 1978 AMENDMENTS AND THE LATENESS OF THE REGULATIONS, THE AGING NETWORK HAS GONE THROUGH A PERIOD OF TIME DURING WHICH MANY OF THE ACT'S PROVISIONS CREATED COMPLIANCE FRUSTRATIONS AND NUMEROUS PROBLEMS. IN LIGHT OF THAT EXPERIENCE, WE SUPPORT THE REAUTHORIZATION OF THE ACT, INCLUDING NECESSARY CHANGES, FOR A THREE YEAR PERIOD, IN ORDER TO ENHANCE THE CAPABILITIES OF SERVICES PROVIDED UNDER THE ACT TO MEET THE NEEDS OF OLDER AMERICANS. THE DECENTRALIZATION MODEL FOR FEDERAL-STATE-LOCAL RELATIONSHIPS NEEDS TO BE THE FOCUS OF THIS REAUTHORIZATION.

AGING PROGRAMS HAVE EVOLVED TO A POINT WHERE THERE NOW EXISTS A SENSE OF STABILITY. WE STRONGLY RECOMMEND THE RETENTION

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OF THE THREE-YEAR PLANNING CYCLE WHICH ENABLES STATE UNITS AND AREA AGENCIES ON AGING TO PLAN FAR ENOUGH INTO THE FUTURE AND WHICH TAKES THE EXISTING STABILITY INTO CONSIDERATION. A SHORTER PLANNING CYCLE WOULD CREATE FRAGMENTATION IN THE CONTINUITY OF DEVELOPMENT.

THE SINGLE STATE UNIT FOR IMPLEMENTING AND COORDINATING THE PROVISIONS OF THE ACT HAS PROVEN TO BE EFFECTIVE IN PENNSYLVANIA. IT IS IMPERATIVE THAT THIS PROVISION BE PROVIDED FOR IN THE ACT. THE SINGLE STATE UNIT WOULD BE MORE ACCOUNTABLE FOR PROGRAMS AND SERVICES AND WOULD PROVIDE MAXIMUM VISIBILITY FOR PROGRAMS AND CONCERNS OF THE ELDERLY.

WE SUPPORT THE CONSOLIDATION OF TITLES IIIB AND IIIC. THE TITLE III CONSOLIDATION WOULD IMPROVE THE COORDINATION OF FUNDS AND ENHANCE THE ELDERLY INDIVIDUAL'S ACCESSIBILITY TO A FULL RANGE OF HEALTH AND SOCIAL SERVICES PROVIDED THROUGH THE COMPREHENSIVE, COMMUNITY-BASED SERVICE DELIVERY SYSTEM. WITHIN THIS FRAMEWORK, WE FURTHER RECOMMEND THE PRESENT 50% SPENDING REQUIREMENTS FOR PRIORITY SERVICES BE ELIMINATED. THIS WOULD ALLOW FOR LOCAL PLANNING OPTIONS TO DETERMINE BLEND OF COMMUNITY AND IN-HOME SERVICES TO PREVENT INAPPROPRIATE INSTITUTIONALIZATION.

IN RECOGNIZING THE WIDE VARIETY OF CONDITIONS WHICH EXIST IN LOCAL PLANNING AND SERVICE AREAS ACROSS THE COUNTRY, AN ALTERATION IN THE LANGUAGE OF THE ACT WHICH PROHIBITS THE PRO-

VISION OF DIRECT SERVICES BY AREA AGENCIES ON AGING NEEDS TO BE ADDRESSED. PLANNING AND SERVICE AREAS ARE IN THE BEST POSITION TO DETERMINE THE DISTRIBUTION OF DIRECT SERVICES VERSUS CONTRACT SERVICES ACCORDINGLY ON THE REALITIES OF THEIR LOCAL COMMUNITIES. AUTHORITY SHOULD BE GRANTED TO PLANNING AND SERVICE AREAS TO TEST SERVICE DELIVERY SYSTEMS WHICH REALISTICALLY REFLECT LOCAL CONDITIONS.

IN ORDER TO BETTER UTILIZE LOCAL RESOURCES, THE STATE UNITS AND AREA AGENCIES ON AGING SHOULD BE GIVEN THE OPTION TO IMPLEMENT SLIDING FEE SCHEDULES WHICH ARE BASED ON THE INCOME LEVELS OF CLIENTS. THIS WOULD ENABLE A GREATER NUMBER OF OLDER PERSONS TO PARTICIPATE IN THE PROGRAMS AND SERVICES ESTABLISHED BY THE OLDER AMERICANS ACT. CURRENTLY, AREA AGENCIES ON AGING MUST SERVE ANYONE WHO IS 60 YEARS OLD OR OLDER WHO REQUEST SERVICES, REGARDLESS OF THE ABILITY OR INABILITY OF THAT PERSON TO PAY FOR THE SERVICE. WITH THE CURRENT LEVEL OF FUNDING, SERVICE PROVIDERS ARE ABLE TO PROVIDE ONLY A LIMITED AMOUNT OF SERVICES, THOSE SERVICES BEING DIRECTED TO THOSE PERSONS WHO HAVE THE GREATEST ECONOMIC AND SOCIAL NEEDS. THE USE OF SLIDING FEES WOULD ENABLE MORE OLDER AMERICANS TO HAVE ACCESS TO SERVICES AND WOULD ENABLE SERVICE PROVIDERS TO EXPAND THE AMOUNT OF SERVICES AVAILABLE.

ACCESS TO A COMPREHENSIVE, COMMUNITY-BASED SERVICE DELIVERY SYSTEM SHOULD INCLUDE ACCESS TO LONG TERM CARE. THE DELIVERY PROCESS AND PROGRAMMATIC CONTENT OF LONG TERM CARE SHOULD BE ADDRESSED BY THE ACT. LONG TERM CARE REQUIRES COMMON DEFINITION

IN ORDER TO CREATE A COMMON UNDERSTANDING IN THE PLANNING AND SERVICE AREA FIELD. BY INCLUDING LONG TERM CARE IN THE ACT, A STATUTORY BASE WILL BE ESTABLISHED FOR THE CREATION OF DEFINED SYSTEMS TO SERVE THE HEALTH AND SOCIAL NEEDS OF OLDER AMERICANS.

THE NEED FOR A LONG TERM CARE OMBUDSMAN PROGRAM HAS BEEN DOCUMENTED. IN ORDER FOR THIS PROGRAM TO BE EFFECTIVE AND TO REACH ITS POTENTIAL, GREATER FLEXIBILITY SHOULD BE GRANTED TO STATE UNITS AND AREA AGENCIES ON AGING. PROCESSES SHOULD BE BASED ON LOCAL CRITERIA AND SHOULD NOT BE FEDERALLY IMPOSED.

IT IS RECOMMENDED THAT THE ACT MORE REALISTICALLY RECOGNIZE THE CAPABILITIES OF STATE UNITS AND OF AREA AGENCIES ON AGING TO MONITOR, EVALUATE, AND COMMENT ON ALL POLICIES, PROGRAMS, HEARINGS, LEVIES, AND COMMUNITY ACTIONS WHICH AFFECT OLDER AMERICANS. LIMITATIONS OF BUDGETS, STAFF, AND AUTHORITY RESTRICT THE ABILITY OF OLDER AMERICANS ACT ADMINISTRATIVE AGENCIES TO ACCOMPLISH THIS TASK WITH ANY DEGREE OF COMPREHENSIVENESS. WE, THEREFORE, RECOMMEND THAT THE LANGUAGE OF THE ACT BE CHANGED TO GRANT FLEXIBILITY TO OLDER AMERICANS ACT ADMINISTRATIVE AGENCIES SO THAT THESE AGENCIES MAY PRIORITIZE REVIEW AND COMMENT ACTIVITIES ACCORDING TO THE NEEDS OF THEIR CONSTITUENCIES.

A GREATER PORTION OF TITLE IVA TRAINING FUNDS SHOULD BE DISTRIBUTED TO STATE UNITS AND AREA AGENCIES ON AGING. THIS

COULD BE ACCOMPLISHED UNDER THE SAME FORMULA USED FOR DISTRIBUTING TITLE III FUNDS. IN ADDITION, STATUTORY LANGUAGE SHOULD BE INCORPORATED TO INSURE THAT DISCRETIONARY FUNDING IS TARGETED ONLY TO SPECIAL NEEDS OF THE AGING NETWORK.

WE ALSO ADVOCATE FOR AGGRESSIVE ENFORCEMENT OF THE AGE DISCRIMINATION ACT. IF AGING PROGRAMS ARE TO ACCOMPLISH THEIR MANDATES, IT MUST BE DONE IN AN ENVIRONMENT WHICH IS FREE FROM AGE DISCRIMINATION.

IN CONCLUSION, ALTHOUGH WE ARE AWARE OF THE FACT THAT CURRENT FUNDING IS INADEQUATE TO PROVIDE OLDER AMERICANS ACT SERVICES, AND THAT TIGHT FISCAL RESTRAINTS ARE A REALITY, AS ADVOCATES FOR OLDER PERSONS WE WOULD BE REMISS IN NOT REQUESTING THAT ADEQUATE FUNDING BE PROVIDED SO THAT THE MANDATES OF THE OLDER AMERICANS ACT CAN BE MET.

-- ADEQUATE SERVICES REQUIRE ADEQUATE FUNDING. --

ITEM 3. LETTER FROM JOHN B. TRUSLOW, M.D., CHAIRMAN, MAINE COMMITTEE ON AGING, AUGUSTA, MAINE, TO SENATOR WILLIAM S. COHEN, DATED APRIL 13, 1981

Dear Senator Cohen:

The Reagan Administration will present its recommendation for the reauthorization of the Older Americans Act shortly. The proposal will probably call for the elimination of federal mandates on how the federal funds should be spent. Presently, one percent of the State's Title 3-B allocation, or $20,000, whichever is greater, is earmarked for the state Nursing Home Ombudsman Program, a requirement that will probably be dropped. The Ombudsman Program in Maine has received the $20,000 in federal funds. In addition, it has received one-half of the discretionary advocacy assistance grant from the Administration on Aging. There have been no state dollars allocated to the program.

The Ombudsman Program in Maine has, during the past five years, become recognized as a responsible voice for the institutionalized elderly and has achieved maximum credibility. We believe it has acted as a strong impetus within the nursing and boarding home industries to focus on the residents of these facilities and their needs. Our fear is that, without the continued monitoring of the care and quality of life in long term care facilities which results from our response to complaints on behalf of residents, the gains that have been made may be lost. Our ability to identify issues and address them administratively and legislatively will be endangered, if not eliminated.

We have a serious concern that, should there be cutbacks affecting the licensing and certification of long term care facilities, the gains made in improving the delivery of long term care services may be lost. Residents of these facilities will continue to be housed and could slip backward to being warehoused. Our major concern is that the Nursing Home Ombudsman Program continue to be a mandated service, not an option of the states.

Sen. William Cohen April 13, 1981

If the mandate continues, it could be expected that the states would have to make some financial commitment. The Maine Committee on Aging strongly endorses the use of citizen volunteers as a base for the Ombudsman Program. We would continue to rely on this resource, but we must continue to have one salaried staff person who cannot be expected to operate in a financial vacuum.

We urge your support and recognition of the essentiality of the federal mandate in the vital role that the Ombudsman Programs have played in the long term care system. Your advocacy on behalf of the program would be greatly appreciated.

Sincerely,

John B. Truslow, M.D.
Chairman

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ITEM 4. LETTER FROM L. E. RADER, DIRECTOR OF HUMAN SERVICES, STATE OF OKLAHOMA COMMISSION FOR HUMAN SERVICES, TO SENATOR JOHN HEINZ, CHAIRMAN, SPECIAL COMMITTEE ON AGING, DATED MAY 12, 1981

Dear Senator Heinz:

As Director of the Department of Human Services, in Oklahoma, since November 15, 1951, I would like to present the following testimony and express my support for the proposal that Older Americans should have greater control over and participate more fully in the operation of those programs that serve them under the Older Americans Act.

Oklahoma, through its Department of Human Services, Special Unit on Aging, has been administering the elderly assistance program, since the Older Americans Act of 1965 (PL 98-73). This program, I feel, has been fundamentally responsible for the improvement in nutritional well-being, and social companionship now enjoyed by this segment of the population that had been sorely lacking prior to its enactment.

Stories reach us from all over the State that can only add support to the program. I feel it is responsible for saving and lengthening many lives in our State. The elderly feeding program has been a source not only for a much needed nutritious meal, but also a means of companionship. It has given the elderly an opportunity to have one solid meal per day, and to enjoy it with their fellow senior citizens. I am aware that improved medical technology has been a tremendous factor in increased American longevity, but I am equally certain that the elderly feeding program has also been instrumental in this increased life span. Prior to the Older Americans Act, too many of the elderly led a very lonely life, after the loss of a spouse or companion; there was a reluctance to prepare a proper meal just to eat alone. They would skip meals or eat snacks. The resultant inability of their systems to ward off infections and common colds hastened their demise. This fact and other accruing benefits from the Older Americans Act has prompted this testimony.

I am convinced that we are at a crucial stage in the history of this, the Older Americans Act advocacy and service system, which has been created over the past fifteen years. As an advocate for the Aged, I consider it imperative that we look carefully at the statutory purposes of Title III of the Older Americans Act. We need to come to some consensus about its meaning, whether it continues to be in the best interest of older persons, and if so, how best to achieve the goal toward which our efforts have been directed since 1965: The development of a comprehensive and coordinated community-based health and social services system for older Americans which fosters independent living.

I believe it essential that we continue to pursue this goal. Much progress has been made - a good deal more can be accomplished. I should like to submit the following set of fundamental principles upon which, I believe, the structure of this system should be based:

Fundamental Principles

The public sector at the federal, state and local levels should assume primary responsibility for the development, implementation and maintenance of this service system, with clearly defined roles at each level.

Public involvement in this service system should foster, not hinder, the expanded participation of the private and voluntary sectors in providing needed services to the older population.

The primary objective of this comprehensive system should be a largely independent existence by the older population through the provision of a range of service options which guarantee the right of the individual to choose the least restrictive and the most appropriate alternatives.

All components of the income maintenance system must be fully coordinated with this comprehensive system at the community level to ensure the provision of health and social services to the most vulnerable elderly.

Emphasis must be placed on the provision of health and social services to those older persons who are most vulnerable, the very old, the poor, the disabled, the isolated, the minority aged. But the system should not be structured upon income qualifications because income alone is not an adequate measure of vulnerability among the elderly.

The focus must continue to be on the most vulnerable aged, but the system should, at the same time, encourage the development of commensurate needed services for older persons with the ability to assume some or all charges.

Although the primary objective of the ocmprehensive system should be the independent living of the older population in the community, services should not foster unnecessary dependence on the services themselves.

To achieve this goal and put these principles into practice, I suggest consideration of the following specific recommendations on reauthorization of the Older Americans Act.

1. Administration on Aging/DHHS

An Assistant Secretary for aging services should be established within DHHS, with responsibility for:

Representing the interests of all older Americans within the DHHS and with other Federal departments and agencies.

Administration of the Older Americans Act to consist of three major aging consolidated grant programs to the States.

--Community-Based Services Development and advocacy (Current Title III).

--Aging Employment Services and Training (Currently Title VI), and

--Senior Volunteer Programs (Current Retired Service Volunteer Program, Foster Grandparents and Senior Companions).

2. OAA Title III: Grants for State and Community Programs on Aging

The current Title III Programs should be the foundation for the development of a consolidated aging grant to the States for Community-Based Services Development and Advocacy. The consolidated grant (merging of appropriations) should delineate:

- Broad Federal services development goals which would be addressed by State and Area Agencies through implementation of local needs assessment and planning processes. This would provide flexibility to programs at the local level to meet the local needs.

- Broad Federal advocacy goals which would be implemented by State and Area Agencies, based on State and local issues, thereby providing additional opportunities for employment of many more older persons as professionals in the planning and delivery of services under the Older Americans Act programs.

The fundamental responsibilities, roles and capacities of State Units on Aging and Area Agencies on Aging to act as focal points at their respective levels for aging administration, advocacy planning, and service system development. This would assure that the legal mandates of the Act are carried out and reported to the DHHS.

3. Capacities/Resources of State and Area Agencies on Aging

The policymaking, administrative and advocacy capacities of State Units and Area Agencies on Aging under the consolidated (merged) grant should be commensurate with their increased responsibilities as advocates for the elderly at State and area levels and as chief planners, coordinators, evaluators, trainers, monitors, and administrators of State Aging Services programs. The State Plan of Operation on Aging and area agencies designated to administer the services merged grant should have the capacities to:

- Develop and administer the State Aging Service Plan and the area plans.

- Develop and administer the State Senior Volunteer Services Plan.

- Develop and administer the State Aging Employment Services Plan when so designated by the Governor.

- Serve as an effective and visible advocate for all older persons in the State and assist the aged in serving as advocates in their own behalf.

- Be primarily responsible for coordinating all activities in the State relating to the purposes of OAA.

4. OAA Title V: Senior Community Services Employment Act:

The current Title V Program should be transferred for administration by the new Assistant Secretary for Aging Services with the DHHS, and established as an Aging Employment Services and Training consolidated grant to the States within the Older Americans Act.

5. Older Americans Volunteer Programs:

The current RSVP, Foster Grandparents and Senior Companion programs should be transferred to the new Assistant Secretary for Aging Services within the DHHS, and converted into a consolidated grant to the states for senior volunteer services within the OAA.

6. State Administrative Funds:

The State Agency designated to administer these consolidated grant programs should be allowed up to 7 percent of the grants for administration of State Plans.

7. Planning and Appropriation Cycles:

The OAA should be reauthorized for five years through FY 1986 and provide for three year State and Area plans.

8. OAA Program Target Population:

The State Plans on Aging within the OAA should be required to define the services to be delivered, develop program standards for those services, and establish eligibility criteria (including physical, social and economic factors) for the receipt of those services within broad Federal guidelines.

9. Direct Services Provisions:

The prohibition against direct services delivery by a State Unit or Area Agency on Aging should be continued unless the provision of such services is necessary to assure the adequate supply and quality of the service provided.

10. OAA Title VI: Director Funding to Indian Tribes

The direct funding option for Indian Tribes established in the 1978 Amendments to the OAA should be continued and expanded to provide an adequate funding base. The provision to reduce a State's Title III allotment when Title VI funding enters the State becomes counterproductive and should be abolished.

11. OAA Title IV:A Training

- The State training portion of the current Title IV-A should be established as a statutory state formula grant program with a hold harmless provision.

- State Units on Aging and Area Agencies on Aging should have sign-off authority over Title IV-A training grants, funded directly from the DHHS within their State and planning service areas prior to the funding of these grants and contracts.

- State Units and Area Agencies on Aging should have statutory authority for input into the annual aging training plan in order to ensure a training program that is responsive to the network's needs and is in concert with State and local training programs.

12. OAA Title IV:B Research and Development Projects

To ensure an AOA directed research program responsive to the network's needs, the State Units and Area Agencies on Aging should:

- Continue to be part of a strengthened peer review process.

- Have statutory authority to have input into development of annual strategy, and

- Have sign off authority over projects funded within their jurisdiction prior to the funding of grants or contracts.

13. OAA Title IV:C Discretionary Projects and Programs

In order to ensure that Title IV-C programs are supportive of and in concert with the network's needs, the State Unit and Area Agencies should:

- Continue to be part of a strengthened peer review process,

- Have statutory authority to have input into development of annual strategy, and

- Have sign-off authority over projects funded within their jurisdiction prior to the funding of grants or contracts.

At least 25 percent of funds appropriated for this part should be allocated annually for special services development initiatives by State and Area Agencies within priorities established by the Congress.

Funds currently allocated to the State Advocacy Assistance Program and the Bi-Regional Advocacy Assistance Centers should be combined into a new State Advocacy Discretionary Center.

14. Commodities Vs Cash-in-lieu:

States should be permitted to retain the option of electing to receive donated foods assistance as opposed to Cash-in-lieu. The quality, variety and volume of USDA foods received is far more beneficial to State and elderly feeding programs than its cash equivalent. The donated foods assistance permits operation of the feeding programs for greater coverage and higher nutritional value than is possible under a cash program.

Again I would say that the Older Americans Act of 1965 has made great strides in improving the lot of the elderly, especially through the elderly feeding program, and every effort should be made to continue and strengthen its benefits.

Thank you for this opportunity to present this testimony to your Committee.

Respectfully submitted,

L. B. Rader
Director of Human Services

ITEM 5. LETTER AND ENCLOSURES FROM SANDRA R. RAY, CHAIRMAN, SOUTHEASTERN ASSOCIATION OF AREA AGENCIES ON AGING, TO SENATOR JOHN HEINZ, CHAIRMAN, SPECIAL COMMITTEE ON AGING, DATED MARCH 25, 1981

Dear Senator Heinz:

The Southeastern Association of Area Agencies on Aging recently adopted the enclosed Resolutions.

The year 1981 is an important year for the aging programs and the older adults they serve. The Older Americans Act will be re-authorized by Congress and the 1981 White House Conference on Aging will be held.

We solicit your support for continuation of aging programs and ask that you work with us to insure that older adults live as independently as possible.

Please feel free to contact me at any time regarding issues affecting our older population.

Sincerely,

Sandra R. Ray

Sandra R. Ray
Chairman

SRR/mf

Enclosures

RESOLUTION NO. 2

WHEREAS, the 1978 amemdments of the Older Americans Act provided for more complete planning and administrative responsibility of programs and services to older adults by each Area Agency on Aging;

AND WHEREAS, this approach has provided for greater involvement by older adults and elected officials in the planning and administration of those programs and services which are most beneficial for older adults in individual communities through the deployment of resources in the manner most appropriate and needed by individual communities;

AND WHEREAS, the Area Agencies on Aging incorporated in the several states of the Southeastern Association of Area Agencies on Aging, Inc. are housed for the most part, in the organizational structures which provide for strong contributions by local elected officials in the planning and administrative processes of Area Agencies on Aging;

NOW THEREFORE, be it resolved that the Southeastern Association of Area Agencies on Aging, Inc. meeting the 18th day of November, 1980, wishes to recognize and commend the Congress of the United States for the foresight expressed through the 1978 amendments which provide for the local planning and administrative responsibility of the Area Agencies, and, expresses a strong desire for the continuation and strengthening of local responsibility for said planning and administrative responsibilities for programs and services under the Older Americans Act of 1965, as amended;

AND BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Congresss of the United States; the Commissioner of the Administration on Aging: Directors of State Units on Aging and Area Agencies on Aging within HHS Region IV.

RESOULUTION NO. 3

WHEREAS, the Older Americans Act has been amended and regulations finalized for implementation of Title III funds;

AND WHEREAS, Title III-C programs have been crippled by the lack of funds to transport elderly persons to nutrition sites and consequently Title III-C funds cannot effectively be utilized;

AND WHEREAS, social services previously funded under Title III-B have been substantially curtailed to continue transportation services to nutrition sites;

NOW THEREFORE, be it resolved that the Southeastern Association of Area Agencies on Aging, Inc. meeting this the 18th day of November, 1980 requests strong consideration be given to reviewing the use of social service funds under Title III to allow transportation services to be funded under Title III-C Allocations;

AND BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Congress, appropriate House and Senate Committees, Commisssioner of the Administraton of Aging, Directors of State Units on Aging and Area Agencies on Aging within HHH Region IV.

RESOLUTION NO. 6

WHEREAS, there is an active interest within the Southeastern Association of Area Agencies on Aging, Inc. to acknowledge the proposed Title XXI concept;

AND WHEREAS, the planning and coordinating responsibilities for all Aging services lies within the Area Agencies on Aging;

AND WHEREAS, the Association has continually supported the equitable distribution of those monies earmarked for older adult benefits programs within the Social Security Act;

NOW THEREFORE, be it resolved that the Southeastern Association of Area Agencies on Aging, Inc. meeting this the 18th day of November, 1980 instruct the agencies responsible for administering Social Security Act funds to utilize the technical capabilities of Area Agencies on Aging and be given due consideration as these proposed funds are distributed so that Area Agencies on Aging are in a position to coordinate distribution of these proposed funds;

AND BE IT FURTHER RESOLVED, that copies of the resolution be forwarded to the Commissioner of the Administration on Aging; Directors of State Units on Aging and Area Agencies on Aging within HHS Region IV, and appropriate House and Senate Committee members.

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RESOLUTION NO. 7

WHEREAS, the Older Americans Act is scheduled for reconsideration in 1981 by the Congress of the United States;

AND WHEREAS, the final regulations of the Older Americans Act were finalized on March 31, 1980;

AND WHEREAS, the consolidation of titles introduced by the 1978 amendments to the Act have had only a limited time period for implementation and measurement as to the impact of said consolidation of said titles:

AND WHEREAS, the White House Conference on Aging is to be held in Washington, D.C. the week of November 30, 1981;

NOW THEREFORE, be it resolved that the Southeastern Association of Area Agencies on Aging meeting this the 18th day of November 1980 petitions the Congress of the United States to continue the 1978 amendments and subsequent regulations for two additional years, until 1983, in order to gain a more complete and thorough understanding of the affects wrought by the 1978 amendments and subsequent regulations thereto;

AND BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Commissioner of the Administration on Aging, Directors of the State Units on Aging and Area Agencies on Aging in the HHS Region IV.

ITEM 6. STATEMENT OF ELIZABETH B. DOUGLASS, EXECUTIVE DIRECTOR, ASSOCIATION FOR GERONTOLOGY IN HIGHER EDUCATION, WASHINGTON, D.C.

The Association for Gerontology in Higher Education is a professional membership association of over 200 institutions of higher education that conduct research and provide education and training in the field of gerontology. We offer this statement on the reauthorization of the Older Americans Act, and in particular address issues dealing with the Title IV Discretionary Programs.

AGHE supports the Leadership Council of Aging Organizations and the Federal Council on Aging in their call for a 1981 reauthorization of the Older Americans Act.

I. Older Americans Act - General Comments.

The services and programs authorized under the Older Americans Act that are targeted on the basis of age must be continued. We are a society that continues to discriminate on the basis of age. Until we have progressed to the point where age is indeed irrelevant, it is imperative that the needs and problems of older Americans are directly addressed through the age-specific programs provided for under the Older Americans Act.

A. The Older Americans Act should be extended, without major change, for a period of three years, for several reasons:

1. Stability. Only recently have federal regulations been available which impose major operational changes on service providers. To impose still additional changes on the state and area agencies and service delivery network that would result from a major re-writing of the OAA would not be beneficial either to the providers or recipients of services.

2. Economy. It is expensive to implement legislative and regulatory changes. Fewer changes mean fewer dollars spent on these revisions.

3. Timeliness. The 1981 White House Conference on Aging recommendations will not be available in final form until well into 1982. If past White House Conferences on Aging can serve as indicators of this year's conference results, the wealth of recommendations which will result can well

inform further changes to the OAA. It is inappropriate to second-guess the 1981 WHCoA recommendations at this time by making major changes to the Act.

4. Planning Cycle. A three-year extension would permit coordination with the three-year planning periods for state and area agencies enacted in the last reauthorization.

B. The obscure placement of the Administration on Aging within the Office of Human Development Services has a direct impact on the inability of the AoA to achieve the goals set forth in the Act. We recommend that the commissioner be directly responsible to the Secretary of the Department of Health and Human Services rather than to the "office of" the secretary. Under the present system, the needs of older Americans are lost in bureaucratic obscurity and the visibility of the AoA needed at the national level is lessened.

C. The advocacy role of AoA needs to be strengthened, not abandoned. Although other federal and non-federal agencies can serve as advocates for older Americans as well, AoA's program experience and dollar leverage give it a unique capability to speak on behalf of older persons.

II. Title IV - Discretionary Programs.

If Congress decides to make major changes in the Older Americans Act in 1981, AGHE urges that particular attention be given to the Title IV Discretionary Programs. The following policy and legislative issues we call to your attention:

A. Institutional Capacity-Building. In a new field such as gerontology, it is essential that resources be provided for knowledge development and for the development of a cadre of professionals trained and educated in the field. Knowledge development and personnel development require a long-term commitment to funding institutional programs that will be devoted to gerontological research and education.

The Administration on Aging should be committed to strengthening the capability of institutions of higher education to conduct research and provide education and training for the field. A number of colleges and universities throughout the country have demonstrated an ability to conduct quality gerontological research and to provide quality educational programs over a period of years. These institutions should be assisted to strengthen their programs and to provide consultation to other academic institutions with an interest in developing gerontological programs.

The Administration on Aging has demonstrated no specific long-range policy or programmatic commitment to the development of educational institutions. A commitment to the support of "centers for excellence" would build on and advance the existing capacity and utility of educational institutions in addressing (via personnel and knowledge) the needs of policy making and service communities in the field of aging. Education, training and research programs must be viewed as the key means of

improving the quality of services being offered by service practitioners who are now serving and who in the future will serve older Americans.

B. Distinctive Contributions of Academic Institutions and the AoA Network. Institutions of higher education have an important role in research, training, and education which is separate, distinct, and complementary to the research and training functions of the State Units on Aging and the Area Agencies on Aging. This distinctive role is in part related to the difference between long-term career preparation and conceptually oriented research which takes place most effectively in the higher education institutions, and the short-term, continuing education, job-skills training, and the program evaluation research that may take place within larger units of the aging network.

In addition, academic institutions and faculty have already begun to demonstrate their appropriateness, viability and commitment to making a contribution to the programs of state and area agencies on aging in the development and implementation of training and program evaluation efforts. Such efforts require a long-term association between educators and service network personnel in regional and local areas that can only be fostered through a clear commitment by the AoA for the continued support of efforts that build into Older Americans Act programs the capacities of the very stable work force of educational institutions.

AoA research, training, and education funds should be committed to the development of the unique capacities of academic institutions and network agencies to provide distinctive programs. Not all gerontological research can or should have an immediate impact on services, and the present policy which states that should be the case reflects a short-sighted view of research and knowledge-building.

C. Investigator-Initiated Research. Research on social problems, policies and services in the field of aging must be continued and expanded as part of AoA's duties to broaden and deepen our knowledge base and to assure close coordination with other activities in the Act.

A continual impediment to knowledge development in the field of aging is the increasing lack of funding for investigator-initiated research. While there is undoubtedly a need for "directed" research, there is also a critical need for federal support of research which grows out of the creativity and knowledge-building capacities of academic institutions. Directed research focuses on the researchable question that can be defined in advance. By definition, this approach limits the investment of research funds in the development of new knowledge in areas that cannot be anticipated in advance. Further, directed research tends to produce fragmented and superficial research, making impossible the multiplier effect of knowledge-building-upon-knowledge that can occur in research institutions with a solid financial base.

D. Consolidation of Title IV Budget. We oppose the consolidation of the Title IV programs and budget and contend that this issue goes beyond budgetary considerations to legislative implications for the Older Americans Act. Categorical funding of research, training, education, and multi-disciplinary centers within Title IV discretionary budget is important. Each program category is necessary. To consolidate all into one budget category would jeopardize their existence and would tend to pit one against the other in a battle over scarce resources. The roles played by research, career preparation, inservice training, and by the gerontology centers and special projects are vital and discrete and should have some protection from the consolidation of function and resources.

III. Summary.

Since the enactment of the Older Americans Act in 1965 giant strides have been made in meeting the needs and problems of our nation's elderly. Gerontological research has helped dispel an enormous array of myths about the aging process and has therefore made it possible for social and health service providers to design programs that address real, not fictitious, needs of the older population.

As the size of the aging population has increased, as the numbers of programs serving the elderly has grown, there has been a large demand for personnel trained to work with older persons. This demand has come not only from specialized programs serving primarily or exclusively the older population, but also from organizations and institutions and businesses serving the general population. These persons educated in gerontology and trained in the aging process are able to effectively plan, administer, and evaluate a vast array of services and programs provided for the general population and specifically the aged in both the public and private sector.

The Administration on Aging discretionary programs are in danger of being eliminated by budgetary cuts and by administration proposals to allow the co-mingling of AoA's discretionary funds with those of the Department of Health and Human Services. The existence and growth of programs provided for by Title IV of the Older Americans Act must be assured by strengthening their role within the Act itself.

ITEM 7. STATEMENT OF BURTON D. FRETZ, EXECUTIVE DIRECTOR, AND BRUCE M. FRIED, PROGRAM COORDINATOR, NATIONAL SENIOR CITIZENS LAW CENTER, LOS ANGELES, CALIF.

We gratefully acknowledge the invitation extended by the Chairman to submit testimony regarding reauthorization of the Older Americans Act.

We believe that the most sensible way to carry out the Act's purposes is to extend the Act for another three year period. To restructure any part of the Act at this time would be unwise as a matter of the Congressional policy underlying this legislation, and would be precipitous as a legislative practice. These considerations are set forth below. Therefore we urge the Committee to recommend:

(1) a simple three-year extension of the Act;

(2) continuation of existing authorization levels; and

(3) retention of the priority for legal services under Title IIIB of the Act.

National Senior Citizens Law Center - NSCLC is the national resource center for persons concerned with addressing the legal needs of the elderly. It is a non-profit corporation governed by a Board of Directors drawn nationally from the field of aging. It serves attorneys, long term care ombudsmen, paralegals and senior advocates in every state of the union who represent elderly clients and client groups. NSCLC provides support for this system through individual case assistance, technical advice, litigation, drafting of pleadings, memoranda and briefs, and occasional administrative and legislative representation of clients. In addition, NSCLC publishes numerous materials dealing with the legal problems

of the elderly and regularly publishes the Washington Weekly Newsletter and the bi-monthly Nursing Home Law Letter.

NSCLC is funded to provide support to staff of programs funded by the Legal Services Corporation who serve the elderly poor in the United States. It is also funded to assist the Older Americans Advocacy Assistance Network, the network of advocates who, Under Title IIIB of the Older Americans Act, address the legal problems of older Americans in greatest economic and social need. Accordingly, NSCLC directs its support efforts toward older Americans having low and moderate incomes.

The fact of limited income of many of America's elderly needs little elaboration. One quarter of the elderly are poor or near-poor. The median income of single elderly individuals reported in 1980 is $4,653 annually. Fully 43% of elderly couples have annual incomes of less than $10,000. We are particularly grateful, therefore, for this opportunity to speak from the perspective of the nation's limited income elderly population.

The Older Americans Act of 1965 - The Act and its subsequent amendments constitute a major development of national policy in the field of aging. The Act contains an explicit Congressional recognition of the need to utilize the nation's resources to assure adequate income, housing, health care, nutrition and employment opportunity through strong service programs to older Americans and -- at the same time -- through participation of older Americans in

the development of these programs. This has meant an increasing involvement of state governments and local area agencies in the field of aging. It has lead to the construction of an overall comprehensive and coordinated system for the delivery of vital social services within each state to the elderly population. It has fostered training, research, technical assistance and support to the network of aging representatives.

The Act's integrated system of social services, advocacy assistance, network development, training and support must be maintained and strengthened. H.R. 3046, introduced in the House of Representatives on April 7, 1981, effectively achieves this purpose. The bill maintains the Act's programs essentially at their current level with a minimum of restructuring or reorganization. We believe that the provisions of this bill should be adopted and that anything less would risk serious impairment of the programs which have been created under the Act.

Now is Not the Time for Restructuring the Act - Several practical reasons militate toward a simple reauthorization of the Older Americans Act. Many of the Act's provisions relating to advocacy assistance and delivery of social services to older Americans are relatively new. Legal services was first designated as a priority service under Title IIIB in the 1978 Amendments. The Department of Health and Human Services did not promulgate final regulations governing grants for state and community programs on aging

and implementing the 1978 Amendments until March 31, 1980. The 1978 Amendments permitted each state to grant a waiver of certain requirements for the provision of priority services by area agencies through September of last year. Thus, many of the services and delivery programs contemplated by Congress in 1978 are in place for the first time in the current fiscal year. It makes little sense to disturb those services and programs before they have had a chance to develop a record for effectiveness.

In addition, the White House Conference on Aging will convene this coming Fall. The Conference is anticipated to issue a comprehensive set of broad national policy considerations affecting Federal programs for the elderly. Changes in the Act should accommodate these considerations wherever possible. Finally, the new Administration will need time to become familiar with the working of the Act and to make administrative changes before legislative modifications should be considered. All of these factors, therefore, suggest strong reasons for a simple reauthorization of the Older Americans Act at this time.

Advocacy Under the Act Must Be Strengthened - Much in the 1978 Amendments concerns advocacy and representation for older Americans. It concerns state agency responsibilities for advocacy, legal services development and ombudsmen program development. It concerns advocacy by area agencies in developing area plans for assistance to older Americans, conducting public hearings, representing the interest of older Americans, and reviewing and commenting on community policies, programs

and actions which affect older persons. It provides for representation of older Americans by an attorney or advocate for the purpose of assisting older Americans to secure their rights, benefits and entitlements.

The range of advocacy and representational assistance to older Americans at the national, state and local levels was viewed comprehensively by the recent White House Mini Conference on Legal Services for the Elderly held in Washington, D.C. on January 30-31, 1981. The Conference involved 61 participants from each major region of the country. Delegates represented various Area Agencies on Aging, State Units on Aging, lawyer and non-lawyer advocates for the elderly, national aging organizations and clients. The findings and recommendations of this Mini Conference, therefore will be of particular interest to this Committee and are summarized here.

The Mini Conference unanimously concluded that Congress should reauthorize the Older Americans Act, including the existing priority for legal services, at the fullest possible level of funding and without restrictions on the availability of legal representation for older Americans. The Conference concluded that the vast need for legal assistance and advocacy on behalf of older Americans is still not being met; and that this need arises, in significant part, from the complex of laws and procedures and government officials which confront older Americans daily. The Conference stressed how older Americans' need for legal assistance is different than the

need for counsel in traditional areas, and rather addresses the basic needs of older Americans for income security, independence, nutrition and adequate health care. The Conference also emphasized that this need can best be addressed through staff programs whose principal responsibility is advocacy for the elderly and that neither the states nor the private bar can adequately meet the legal needs of America's limited income elderly.

Pending Legislation - For all of the reasons set forth above, a straightforward reauthorization of the Older Americans Act, without handicaps on current programs, is the only kind of reauthorization that makes practical sense. To do otherwise would cause disruption and would weaken a program which, though new, appears quite effective in addressing the problems of older Americans. Any legislation should avoid certain proposals which would significantly weaken the services available under existing programs. For example, it should resist efforts to remove the priority for designated social services, including legal services. While the statutory priority is couched in mandatory terms, we believe that it constitutes a minimal intrusion on the use of funds by an area agency. The priority leaves both the level and the nature of designated services, including legal services, to the discretion of an area agency and thus encourages variation and creativity in actual funding. This language signals Congress' awareness of the need for certain kinds of services which are critical in assuring that elderly needs will be met.

Congress should resist current pressures to consolidate services under existing Title IIIB and Title IIIC of the Act. Such consolidation would compel competition among providers of various services for commonly obligated funds in a manner which would be unproductive and unwise.

The Act's programs should be maintained at their current statutory levels. This is especially important for programs funded under Title IV. One purpose of legal services is to enhance the capacity of older people to use their own knowledge and skills to obtain their legal rights and remedies. One goal of such representation to the elderly, therefore, is to expand the number of people with legal knowledge and skills so that individuals and groups will be able to assert themselves effectively in a variety of forums and on a wide range of issues. Title IV provisions for technical assistance, support and training achieve this goal and should be maintained without diminution.

We appreciate the invitation to NSCLC to submit these observations.

ITEM 8. STATEMENT OF LOUISE KAMIKAWA, DIRECTOR, NATIONAL PACIFIC/ASIAN RESOURCE CENTER ON AGING, SEATTLE, WASH.

PACIFIC ISLAND AND ASIAN AMERICAN ELDERLY

The initial data available from the 1980 Census show the Pacific/Asian population to be approximately 3,500,000; an increase of 2 million over the 1970 census count. Of that number, there are more than 350,000 elderly in the United States. The term "Pacific/Asian" is a generic identifier which encompasses two broad ethnic minority groups: the Pacific Islanders and the Asian Americans. In turn, the Pacific Islanders include the Fijians, Guamanians, Hawaiians, Micronesians, Samoans and Tongans; among the Asian Americans are the Burmese, Cambodian, Chinese, East Indians, Indonesians, Japanese, Koreans, Laotians, Malayans, Pilipinos, Thais and Vietnamese. At minimum, there are 18 Pacific Island and Asian American groups, each having its own distinct language and culture. It is necessary, therefore, to avoid any assumption that all Pacific/Asian elderly have similar socioeconomic characteristics, language and culture; much less similar immigration histories.

The 1970 Census information showed approximately 250,000 Pacific/Asian elderly, tending to reside clustered in larger cities such as Honolulu, Los Angeles, San Francisco, New York, Chicago, Philadelphia, Seattle, Denver (Pacific/Asian Elderly Research Project, 1977: 41-54). That has changed somewhat with the influx of the Indo-Chinese Refugee Resettlement Program. The following table gives a distribution by state as of 1970.

TABLE I

PACIFIC/ASIAN ELDERLY POPULATION DISTRIBUTION BY STATE

State	Number of APIA's*	Percent of all APIA's in U.S. and Pacific Territories
California	67,245	33.2
Hawaii	47,591	23.5
New York	19,591	9.5
Illinois	6,248	3.2
Washington	5,777	2.8
Trust Territory of the Pacific	4,816	2.4
Pennsylvania	4,246	2.1
Massachusetts	3,945	1.9
New Jersey	3,818	1.9
Ohio	3,565	1.8
All Other States and Territories	35,994	17.8

*APIA refers to Asian and Pacific Island Americans.
Source of data: D.G. Fowles, Report to AoA, March 14, 1977.

Abstracted from Census and Baseline Data, A Detailed Report. pp 12-16. The Pacific/Asian Elderly Research Project, Los Angeles, August 1977.

As excerpted from Understanding the Pacific/Asian Elderly Census and Baseline Data: A Detailed Report, Los Angeles, August 1977 Pacific/Asian Elderly Research Project, the following brief profile highlights some of the Pacific/Asian population. Report based on the 1970 Census of the United States.

Percent of total aging population, 65 and older, in particular ethnicity

Chinese	6.2%	
Hawaiian	4.0%	(Attributed to Hawaiians having lower life expectancies and no outside immigration affecting population growth)
Japanese	8.0%	(41.2% of this group in 75+ age bracket, indicating a much longer life span than the general population)
Korean	3.3%	
Pilipino	6.3%	
U.S. TOTAL	9.9%	(of total United States population aged 65+)

Percent foreign-born, 65+

Chinese	66.9%
Japanese	64.8%
Korean	49.5%
Pilipino	84.2%

Percent foreign-stock with mother tongue other than English, 65+

Chinese	88.4%
Japanese	97.5%

Percent below poverty line, 65+

Chinese	28.9%	(Approximately 30% in San Francisco and approximately 40% in New York)
Hawaiian	25.7%	
Japanese	20.0%	
Korean	44.0%	
Pilipino	27.9%	
U.S. TOTAL	27.3%	

Fujii, Sharon. Understanding the Pacific Asian Elderly--Census and Baseline Data: A Detailed Report. Los Angeles: Pacific Asian Elderly Research Project, August 1977.

Of primary concern to the Pacific/Asian communities is the relative absence of data regarding the characteristics, needs and conditions of our older persons. The other three National Minority Organizations have been funded within the last five years to undertake research endeavors which would provide the basic data regarding older Blacks, American Indians and Hispanic populations. These studies will provide policy makers and program planners with the necessary information to more adequately approach the service needs of those populations. A similar national research endeavor is necessary to more clearly delineate and document the unmet needs of the Pacific/Asian elderly. Preliminary descriptive and experiential information clearly outlines the lack of access and the underutilization of services by the Pacific/Asian elderly.

The emasculating myth that discriminates against Pacific/Asians that we don't have any problems and that we "take care of our own" has permeated the policy decisions of agencies and governmental entites charged with the responsibility of helping all persons in the United States. An overview of the Pacific/Asian history and experience in the United States negates the validity of such assumptions. And, in fact, the problems of the Pacific/Asian elderly are more intense and complex than that of the general older population.

With the exception of the Japanese[1], a large percentage of the Pacific/Asian elderly are immigrants. They have been victimized by actions such as the Chinese Foreign Miners Tax of 1850, the Chinese Exclusions Act of 1882, the Japanese Alien Land Law of 1913, the Filipino Exclusion Act of 1934, the internment of 110,000 persons of Japanese ancestry in concentration camps from 1941 to 1946, and the denial of citizenship to first generation Asians in 1922, and anti-miscegenation statutes of 1935, until a Supreme Court ruling in 1967.

Unlike other migration patterns generating from Western Europe, the immigration pattern of Pacific/Asians has been systematically infused with isolation mechanisms; the denial of citizenship, of the right to own property, the threat of deportation, the lengthy incarceration in camps. The results of such racist based legislation have been to hamper the economic, social and psychological well-being of the Pacific/Asian elderly. As well, such legislation contributed to feelings of distrust, helplessness, powerlessness, fear of government and has successfully alienated the Pacific/Asian elderly from society at large. This has generated a reluctance or refusal on the part of many Pacific/Asian elderly to utilize public social and health services, contrary to the perception the Pacific/Asian Americans "take care of their own."

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[1]Census & Baseline Data, A Detailed Report, the Pacific/Asian Elderly Research Project, Los Angeles, August, 1977.

A study of New York City's Chinatown illustrates the reluctance of Asian American elderly to utilize available services (Cattell, 1962). The study found that nearly 33 percent of the older unattached males in the Community Service Society caseload had no prior contact with any agency, either public or voluntary. When one considers the multiple problems of single, elderly men, the figure is astonishing. Many of these men are eligible for public welfare support, according to the study, "but refuse to apply, or withdraw their applications when they discover the sort of personal information required."

Beyond the variation of racial discrimination and prejudice, the Pacific/Asian elderly are continually encountering obstacles to their full participation in American Society. A research report for the Training Project for Asian Elderly, funded by AoA, concluded "there is strong sentiment the Asian elderly do not receive social services because of language, racial and cultural barriers." (1973). Further, the report delineates, "health and welfare agencies have few bilingual staff, haphazard provision for non-English speaking clients, and very little publicity to the Asian community about their services."

With reference to Chinese Americans, Frederick Li and others identified language and cultural barriers to health care in The American Journal of Public Health (April, 1972). They observed that the Chinese are often poorly informed about the availability of services or find existing facilities to be inaccessible because of a language handicap. Similarly, Bok-Lim Kim (1973) has observed the Asian Americans fail to seek and use existing services to which they are entitled because of language and cultural barriers and unfamiliarity with the social service bureaucracies. Consistent with these findings is the report of the White House Conference on Aging of a study which showed that 34% of the Pacific/Asian elderly who were interviewed had never had a medical or dental examination (White House Conference on Aging, 1971).

It becomes evident that the development of more effective approaches to facilitate access to services for the Pacific/Asian elderly is sorely needed. Although, part of this problem of the Pacific/Asian elderly is lack of familiarity with social and health services; the other inhibiting factors are derived from the phenomenon of clustering; shared experiences and common language provide safety and also create isolation from the dominant society. This results in the Pacific/Asian elderly not being knowledgeable about nor availing themselves of services outside their ethnic community.

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PACIFIC/ASIAN ELDERLY AND OLDER AMERICANS ACT

The Pacific/Asian Elderly Research Project in March, 1977, surveyed 56 state units and 116 area agencies in seven states (California, Colorado, Illinois, Massachusetts, New York, Hawaii and Washington) to determine to what extent the Administration on Aging network had complied with earlier regulations by gathering specific data on the needs of the Pacific/Asian elderly. The findings document the general absence of basic information necessary to adequately plan programs and provider services.

Of the total, 39 state agencies responded; of that number, only 15 state agencies reported having any information on the Pacific/Asian elderly. Thirteen of the 15 state agencies indicated they only had 1970 Census statistical data, which has been unreliable because of the substantial undercount. In California, wherein the largest number of Pacific/Asian elderly reside, no needs assessment, baseline or service utilization data was available. The following table from Pacific/Asian Elderly Research Project indicates the information available by type.

State Agency	Census Information	Needs Assessment	Baseline Data	Service Utilization	Data Collection In Process
1. Alaska	X				
2. California	X				X
3. Colorado			X		
4. Connecticut	X				
5. Hawaii	X	X			X
6. Idaho	X				
7. Illinois			X		
8. Indiana	X				
9. Minnesota	X				
10. Mississippi	X		X		
11. New York	X				
12. North Dakota	X				X
13. Rhode Island	X				X
14. Trust Territory	X				
15. Washington	X	X		X	
TOTAL	13	2	3	1	4

Similarly, the findings of area agencies on aging surveyed showed limited information. Of the 116 area agencies surveyed, 70 responded; 45 had no information on Pacific/Asian elderly. The 25 area agencies that did have information, the reliance was on census data as noted in the table on the following page.

Area Agency	Census Information	Needs Assessment	Baseline Data	Service Utilization	Data Collection In Process
1. Sacramento, CA					X
2. Concord, CA	X				
3. Redwood City, CA	X				
4. San Jose, CA	X				
5. San Bernardino, CA	X				
6. Santa Ana, CA	X	X	X	X	X
7. San Diego, CA	X				
8. Los Angeles, CA	X				X
9. Denver, CO	X				
10. Pueblo, CO	X				
11. Chicago, IL					X
12. Northampton, MA	X				
13. Maryville, NY	X				
14. Poughkeepsie, NY	X				
15. Elizabeth, NY	X				
16. Canandaiga, NY	X				
17. Hayppauge, NY	X				
18. New York, NY	X				
19. Lihue, HI	X	X		X	
20. Wailuku, HI	X	X			
21. Honolulu, HI	X	X			X
22. Vancouver, WA	X	X		X	
23. Bellingham, WA	X	X			
24. Spokane, WA	X			X	
25. Saipan, Mariana Is.	X			X	
TOTAL	23	6	1	5	5

The inherent problems of inadequate information are in large measure a consequence of inadequate administrative funds and an ineffective mechanism for establishing performance standards and a systematic evaluation procedure. The reporting procedures within the network is arduous and duplicative and does not provide the information necessary to serve "those in greatest social and economic need."

The U.S. Commission on Civil Rights was authorized in 1980 to complete a study on the utilization of services by older minority persons. It will provide some needed information on the effectiveness of the Administration on Aging network in providing services to the minority elderly.

Reauthorization of the Older Americans Act

Generally, the National Pacific/Asian Resource Center on Aging recommends the reauthorization of the Act for a three-year period without any basic changes. Inasmuch as the 1978 amendments were issued in March 1981, there has been insufficient time to analyze and evaluate the impact and effectiveness of the changes resulting from that authority.

Legislative Authority

In its deliberations, should Congress initiate any changes in the Act, there are certain guiding principles which underpin the overall intent of the Act and its responsiveness to minorities and the Pacific/Asian elderly.

1) The integrity of the thrust to provide services under Title III, continue to be focused on those in greatest economic or social need.

2) The requirement for mandated services also be continued, but that three separate social and nutrition services be consolidated into one authority. The rationale for such a position is based in historical legislative precedence. It has been through federal mandate and legislation that the needs and rights of disenfranchised groups (poor and the minority) have been protected. Collectively, minorities at the local level have fewer numbers and are unable to impact the process. A good example is the Age Discrimination Act. How viable the mandate mechanism is in insuring accountability is, at best, questionable. However, statutes and mandates do provide a baseline requirement in providing some protection.

3) The discretionary programs as currently prescribed should be further expanded. It is essential that Administration on Aging be the conduit for pinpointing the necessary research areas, identifying training needs, and developing model projects for replication. Greater emphasis in research and demonstration should be placed on minority populations. Education and training programs are in need of realignment which would systematically utilize existing mechanisms for development.

4) The commitment to the Indian tribes, established in the 1978 amendment, in a program of grants be continued.

5) The effectiveness of the Act is inherent in the leadership role of the Administration on Aging. The placement within the Department of Health and Human Services is a significant factor. The Commissioner's position should be elevated to that of Assistant Secretary with all administrative responsibilities concurrently upgraded.

The legislative intent of the Older Americans Act has been to provide an alternative to the systematic problems related to the provision of services by a variety of agencies to older persons. The formidable task in such an endeavor requires adherence to some fundamental precepts. The primary one being that all segments of the older population be provided the opportunity to all services and benefits. In our recommendation we are attempting to provide a perspective of a population heretofore minimally benefiting from such services. It is our belief that achievement in addressing the concerns and needs of the Pacific/Asian elderly refines the system to work more effectively.

ITEM 9. STATEMENT OF DAVID C. CROWLEY, EXECUTIVE VICE PRESIDENT, AMERICAN ASSOCIATION OF HOMES FOR THE AGING

Mr. Chairman:

On behalf of the American Association of Homes for the Aging (AAHA) I would like to offer our comments on the reauthorization of the Older Americans Act. The American Association of Homes for the Aging represents nonprofit, community-sponsored housing, homes for the aging and health-related facilities serving the elderly throughout the United States. Approximately 350,000 older Americans live in over 1,800 AAHA member homes, which are sponsored by various religious, fraternal, labor, civic and county organizations. Additionally, thousands of older persons benefit from outreach services such as nutrition centers, day care activities, home health programs and senior centers organized under the auspices of AAHA member facilities. The average age of individuals served by AAHA members is over age eighty; the average age of residents in housing programs is in the mid-seventies, and individuals residing in health and health-related facilities average in the mid-eighties.

Because of our commitment toward meeting the needs of older Americans and providing them with quality care and services, we are very much interested in the reauthorization of the Older Americans Act. Our association supports a three-year reauthorization of the Act, with minor changes that will be detailed below.

In our analysis of the prior functioning of the delivery of services under the Act, we feel that the need for the services is even greater than it was in 1978, and that every effort should be made to maximize the availability of OAA monies for actual services to older persons. In general, this will entail greater efforts towards "localizing" the service delivery mechanisms. In our view, the optimal immediate step should be to place virtually full planning, decision-making and resource allocation responsibility on the local communities. We strongly support the recommendation of the Federal

Council on the Aging that "the role of the federal government should be to provide resources through the Administration on Aging to aid state and local communities in those endeavors, rather than to mandate particular programs or uniform allocations of resources." We believe this shift in structure will only serve to further the central focus of the Act, i.e., to help local communities create and maintain comprehensive and coordinated support systems for the elderly. Thus, in general terms, we feel that the Administration on Aging can be most effective if it concentrates on three broad areas: 1) issuance of federal policy statements; 2) improvement of advocacy at all levels of government; and 3) funding initiatives in research and training so as to enable the present system to evolve into a more responsive and effective system in the future. Our comments below will be limited to these three areas, in the order as the particular functions appear in the present Act.

Title II

A primary purpose of the Act has been to maintain an advocacy apparatus for the elderly at all levels of government. This is a concept which we applaud. Despite the economic circumstances which comprise the context of the Congress' deliberations, we can never forget that the campaign against ageism is far from over, and that older Americans need and deserve continued advocacy efforts on their behalf. This is not to say, however, that the Administration on Aging has been a loud and effective voice for the elderly in the past. Its limited resources have been primarily focused on the management of programs rather than on general advocacy. Perhaps this is an opportune time to examine the increasing workload and responsibility of the Administration on Aging since 1965, and its ability to constantly expand its scope of operations to meet its new duties. From our view, it is fairly clear that AoA has not received the necessary resources to enable it to fulfill its many tasks,

and this is particularly true regarding its advocacy functions. Thus, at the outset, we submit that there be a change in emphasis to permit the AoA to devote substantially more resources to improving advocacy at all levels.

A similar situation exists at the state and local levels. The area agencies on aging are largely involved in the delivery of services and management of programs. Advocacy obviously suffers when 1) a substantial amount of time, attention and money is used to meet programmatic requirements and 2) possible complaints may involve the management of the very programs administered by the agency. However, effective advocacy is still possible regarding the private sector and in educating the public about the needs of older persons. This we feel should be a priority at the Area Agency on Aging level, and federal funds should be directed toward that purpose.

To summarize, the elderly need a strong voice within the federal government to present a steady source of guidance to the numerous offices which deal with the elderly. This role can be best borne by an Administration on Aging freed from many of its technical responsibilities. The state and local agencies can assist in the advocacy and education process, but in a somewhat more limited fashion.

Ombudsman Program

A noteworthy undertaking under the Act has been the creation of the State Nursing Home Ombudsman Program. AAHA has cooperated closely with the Administration on Aging in the development of the program since its inception in 1972. Only recently, AAHA was the sole provider representative on the AoA Ombudsman Task Force, assembled to assist in the preparation of regulations implementing the new provisions in the 1978 reauthorization. We are eager to work to improve this program, which can be an effective vehicle toward raising the quality of care for the elderly.

The program's limited funding, however, can undoubtedly hamstring any statewide ombudsman system. It may be wise to permit the states to be selective regarding the localities chosen for the full implementation of the program. Problem areas can and should receive a higher priority for the ombudsmen. Until the program is fully funded and capable of a dynamic statewide operation, we feel that the state authorities should be able to target the program. Otherwise, a mandated statewide system will only be skeletal in nature and be of scant value to the elderly it is designed to serve.

Title III

Much has been said about Title III's "targeting" of services to persons of greatest economic and social need. We are in basic agreement with the Federal Council on the Aging that the first focus of any targeting of the limited Title III funds should be the frail elderly. We also agree with the assessment that the definition or description of "frail" should be developed at the local level. As stated earlier, the reauthorization process cannot be done in a vacuum, oblivious to budgetary constraints and the plights of overloaded agencies. In more ideal times we would strongly support a more universal approach to the scope of Title III. However, time and resources simply do not permit such an approach when attempting to achieve the most effective impact.

Thus, we would urge that the federal presence in this area be geared to the development of policy, not formulas, percentages, or specific criteria, to guide local targeting efforts. Characteristics such as low income or minority status are clearly factors which should help form any definition of frailty, and the area agencies on aging should be responsive in

including these factors in their strategy plans. Yet, the particular approach and emphasis in meeting these needs should be within the province of the Area Agency on Aging, and not determined by federal statute or regulations.

Beyond this initial targeting, special concentration should continue to be given to the building of community support systems with the purpose of reaching all older persons in the community. Again, the very nature of the services offered and the problems of service delivery requires that the local community be the primary formulator of these support systems. In line with our endorsement of increased local authority, we tend to support the recommendation of the Federal Council on the Aging that Congress should seriously consider combining Titles III-B and III-C into one community services assistance grant. Since the praticular programs are to be developed locally, this would enable the communities to allocate the federal funds to best meet the demands of their programs. Obviously, local programming should still be subject to and measured by federal policy, as set forth in the Act and supporting regulations.

One area that is especially ripe for a federal policy statement is the process by which local plans are put together. Participation by older persons and consumers of services in the development and implementation of the support systems has been a commendable goal since the Act's inception in 1965. Their assistance should continue to be solicited for they can help immeasurably in identifying opportunities as well as barriers for older persons.

Consistent with our desire for increased local authority, we support the Administration's proposal to repeal the current 50 percent priority services requirement in Section 306 of the Act. We agree with the suggestion that Congress require area plans to include access services, in-home services, and legal services without specifying a fixed percentage. This, we feel, would be an acceptable blend of federal policy and local determination and implementation.

Title IV

Title IV concerns several important areas which require a strong federal presence in terms of funding and direction. Through this title, the federal government attempts to meet clearly identified research and training needs that are not met by state and local governments or by public or private institutions. Since World War II, the federal government has been the primary source of support for research and research training. Unfortunately, the Administration has proposed the elimination of research relating to areas other than biomedical-related.

Over the past twenty-five years, progress in the aging field has been marked by an increasing awareness that the world of senior citizens is more than that of mere medical needs, but rather encompasses social, psychological and economic aspects. Our member homes formalized this recognition with the adoption of a policy defined as the "social components of care" in 1966, wherein the homes' residents are encouraged to realize themselves as individuals with personal dignity and as members of communities.

However, as the professionals in aging move to a focus comparable to our "social components," it is vital that continued research and leadership move at a similar pace. The Administration proposal concerning Title IV is more than a retrenchment - it portends the turning back of the clock at least one generation in the field of research and training. Without strong governmental support, advances in these areas will be extraordinarily difficult. The task is simply too complex to be adequately addressed by the private sector or state and local governments. For that reason, we urge the Congress to require the Administration on Aging to offer firm support for research and training beyond the limited effort of the Administration's recommendation.

Channeling Demonstration Projects

AAHA has long supported the Channeling Demonstration Program as a step in the right direction toward improving the allocation of and access to long term care. We thus support the continuation of this and the other programs authorized under §§421 and 422 of the 1978 Amendments. The demonstrations and special projects contained in these sections, if permitted to develop, should go far in presenting innovations and alternatives to the present lack of a cohesive policy for long term care. There is no escaping from the fact that more information is needed to assist policy makers, and we believe quite strongly that the Congress would be doing itself and the nation's frail elderly a gross disservice if the demonstration and special projects are curtailed or terminated.

AKP/bjc
5/5/81

ITEM 10. STATEMENT OF CHARLES SALEM, MAYOR, GOODYEAR, ARIZ.; MEMBER, MARICOPA ASSOCIATION OF GOVERNMENTS; AND PRESIDENT, NATIONAL ASSOCIATION OF REGIONAL COUNCILS

Mr. Chairman, I am Charles Salem, Mayor of Goodyear, Arizona; member of the Maricopa Association of Governments; and President of the National Association of Regional Councils.*

We appreciate the opportunity to present our views to this panel on the reauthorization of the Older Americans Act.

NARC is a strong supporter of the areawide agencies on aging concept. About 200 regional councils serve their communities as such agencies, coordinating a variety of social and nutrition servies, as well as multi-purpose senior centers.

We believe that the bottom up approach set out for the allocation of resources under the aging program should be a model for other social service programs. We have long endorsed the use of statewide plans which are composites of areawide plans as guides for resource allocation. The AAA concept not only follows this approach, but illustrates how effective it can be.

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*The National Association of Regional Councils represents approximately 350 of the nation's 600 regional councils of local governments. Regional councils are public organizations encompassing a regional community and are tied directly to their local governments through local and/or state government actions. The basic responsibility of a regional council is to be an umbrella agency which coordinates regional coordination and management activities. Many regional councils also arrange for the implementation of regional policies.

Up until a few weeks ago, we had understood that the Congress was contemplating a simple extension of the Act. We were prepared to support this effort largely because regulations implementing 1978 modifications to the program were only finalized in spring, 1980.

However, on March 10, President Reagan included in his budget proposals a recommendation that the Congress consolidate Title III(B) (social service and senior centers) and (C) (congregate nutrition service and home-delivered meals) and provide more flexibility for the states in their use of these social service and nutrition funds.

The Act presently requires expenditure of funds for specific services determined to be national priorities. These priorities require each area of the nation to allocate funds for such specified services regardless of the actual need for such specific services in a geographical location. We believe that the allocation of resources should be on the basis of local need.

During the next few weeks, the policy-makers within NARC will be examining the President's proposal to consolidate Title III(B) and (C). Based upon existing general NARC policy, however, we will no doubt support this proposal to give state and local governments more flexibility.

In addition to this point, we hope that the Congress, as it works toward reauthorizing this program, will continue to encourage a strong role for local elected officials in area agencies on aging.

As we have stated in the past, NARC believes that public agencies such as regional councils should be the preferred vehicles for planning and coordination of the aging program. While private, non-profit organizations can play a vital role in the delivery of services to the elderly, we feel that the involvement of local elected officials is crucial to the success of the Act.

Regional councils as area agencies on aging provide an advantage in that they can encourage greater commitment of local funds into the program through the involvement of local elected officials. In this time of limited federal resources, we must begin to give maximum utilization of local resources our utmost attention. Moreover, the comprehensive approach that a regional council lends to this and other programs, promotes better allocation of additional resources and lessens duplication of services within the community.

At the same time we recognize that the consumers of these programs should have an active involvement in the formulation of the program plans.

We continue to be a strong supporter of this important advisory role, especially as more discretion for allocating resources is given to AAAs.

Following are some examples of regional council activities in the aging program:

The Atlanta Regional Commission (GA) serves as area agency on aging in a seven county region. The area includes the city of Atlanta and 60 surrounding smaller jurisdictions. The population of the area is approximately 2 million with 200,000 of those 60 or older. The agency coordinates social and nutrition services and several multipurpose senior centers.

The local communities that serve as members of this regional council of governments are strong supporters of the program. In addition to the local match required to receive Title III funds, the communities have contributed significant amounts of local resources. Each of the seven counties has contributed additional funds, some up to $300-400,000. The smaller cities often donate buildings, staff or operating money for such items as utilities for senior centers.

In Missouri, the Mid-America Regional Council in Kansas City directly operates programs under Title III, VII and IX. The council provides meals

on wheels, job opportunities and transportation for the elderly. In addition to the required match, local communities contribute an additional $70,000 for aging services. This five county region has a population of over 867,000 with about 128,000 over 60.

The Alabama-Tombigbee Regional Commission in Camden, Alabama, serves 10 counties as an area agency on aging. The total population of the area is 225,000 of which 35,000 are 60 or older. The council coordinates nutrition programs, rural transportation, shopping assistance and in-home health services through the aging program and some use of Title XX social service funds. This area is almost exclusively rural and low-income. The largest town is 28,000 with all others in the region 5,000 or below.

The President's proposal for consolidation and flexibility under Title III would be particularly welcome in a rural area like Alabama-Tombigbee where the problem is often not the number of meals they can prepare but how to get people to the meals or meals to the people. Because the elderly population is spread out, transportation services can often be crucial. Flexibility to use funds where they are needed most -- in this case transportation -- will actually make delivery of nutrition services more efficient.

We look forward to working with the Congress as it moves this program through the reauthorization process. It is a program that does not need much modification because it works well as structured. However, we do believe that consolidation of Title III(B) and (C) will provide more flexibility to states and local governments and therefore better delivery of services that meet the most pressing needs.

Thank you.

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ITEM 11. STATEMENT OF LYMAN M. TONDEL, JR., CHAIRMAN, COMMISSION ON LEGAL PROBLEMS OF THE ELDERLY, AMERICAN BAR ASSOCIATION, WASHINGTON, D.C.

Mr. Chairman, members of the Committee:

We appreciate this opportunity to present the views of the American Bar Association on reauthorization of the Older Americans Act. I am Lyman Tondel, Chairman of the ABA's Commission on Legal Problems of the Elderly.

In April, 1981, the American Bar Association's Board of Governors adopted a resolution urging that the Older Americans Act of 1965, as amended, be reauthorized and that a high priority continue to be placed on the delivery of legal services to the needy elderly.

In August 1978, the American Bar Association's Board of Governors created a fifteen-member, interdisciplinary Commission on Legal Problems of the Elderly. The Commission includes practicing attorneys, legal educators, gerontologists, elderly law specialists, government officials and senior citizen advocates.

One of the Commission's four priority areas is the provision of legal services. The Commission seeks to promote the development of legal resources for older persons generally, and in particular to further involve the private bar in responding to the needs of the aged. Thus, we have great interest in the sections of the Older Americans Act pertaining to legal services.

Legal services are important because they help older needy persons -- who may often be poorly educated, frail, or with limited mobility -- to secure access to other services. The elderly are often confronted by complex, rapidly changing laws and regulations which govern their basic quest for food, housing, and health care. Moreover, they want and deserve to enjoy the benefits for which they have been working and paying taxes all their lives. If they are improperly excluded from such benefits, they may need a representative who knows the laws, knows how to present problems to the proper person or agency, knows how to compile the facts and discuss the problem persuasively, and negotiate a solution. Thus, legal assistance is an integral and necessary component of a social service system for needy older Americans. As the Final Report of the White House Mini-Conference on Legal Services for the Elderly (January 29-30,1981)observed:

> "Problems of entitlement, procedure, contractual obligation, and simply pushing through the red tape of a bureaucracy, are matters on which legal services can be of great help to the elderly. A legal representative has the skills and knowledge to understand and seek a range of remedies, to secure full access to social services for older Americans.... By reaffirming that an individual does have rights, legal services particularly promote the individual's self-respect and dignity."

Given, then, that legal services are vital in assuring needy older persons their basic rights and full range of other services,

how can they best be provided? The ABA submits that a combination of public and private resources, including Title IIIB legal programs, the Legal Services Corporation, and the private bar is the best approach.

The role of the private bar. During the course of the March 17th hearings by the Subcommittee on Aging, Family and Human Services of the U.S. Senate Committee on Labor and Human Resources, Senator Jeremiah Denton, Chairman, repeatedly questioned witnesses on how to encourage the use of private sector resources to assist the elderly. While over 530,000 attorneys practice in the United States, only a small fraction work for publicly funded programs. Most are engaged in the private practice of law. Their energies, expertise and influence can and must be a substantial resource for the aged population.

The ABA Commission on Legal Problems of the Elderly knows that the private bar has considerable potential to enhance legal services to the aged by supplementing the efforts of existing programs. Indeed, Congress recognized this potential in the 1978 Amendments of the Older Americans Act by providing that each area agency on aging "attempt to involve the private bar in legal services activities....including groups within the private bar furnishing services to older individuals on a pro bono and reduced-fee basis."

AoA Recognizes Bar Role

The Administration on Aging has also recognized the potential role of the private bar by supporting Commission on Legal Problems of the Elderly efforts to generate the development of bar-sponsored lawyer referral, pro bono, and community education projects throughout the nation. I am pleased to note that state and local bar associations are beginning to respond. Over 20 state and several local bar associations have committees on the elderly, many of which are actively involved in delivery projects. Four statewide reduced-fee referral systems for the elderly are in operation, as well as several state preventive law community education projects for senior citizens, whereby lawyers volunteer their time to speak on legal topics and answer questions at housing projects, senior centers and the like. Over a dozen states have sought to enhance the knowledge of bar members by providing continuing legal education sessions on law and aging. More than 60 local bar projects currently operating or shortly to begin involve volunteer private lawyers, low-fee referral systems and community education.

Yet despite this increasing activity, private bar efforts alone fall far short in providing for the needs among older Americans for legal help. Too many elderly cannot afford customary attorneys fees and not enough private lawyers are available to fill the gap by pro bono or even reduced-fee work. A key reason for this is that private attorneys generally lack expertise

and time for becoming skilled in the complex statutory and administrative areas of the law which affect many elderly. Thus private bar efforts should be integrated into a full legal services delivery system in order to provide private expertise where it is most available - for instance, in handling wills, tax and estate planning, real estate, family law and consumer matters. For the most part, public attorneys who work much of their time in the fields of Social Security laws, Medicare law, Veterans benefits and the like, must handle problems in those highly technical fields, as these are areas where there is little economic incentive for private attorneys to devote a significant amount of their casework.

Further, there are numerous areas in which private lawyers provide pro bono work, and the legal problems of the elderly are a relatively small element in the sizeable demands made upon limited time available for pro bono legal needs of poor. Indigent criminal representation, public interest litigation -- civil rights, environmental matters etc., representation of non-profit organizations, and efforts to improve the administration of justice are among other areas in which lawyers are significantly involved on a pro bono basis.

The private bar must work and is, in fact, working in concert with public legal services programs -- both those funded by the Legal Services Corporation and those funded through the Older Americans Act. For instance, in Washington, D.C. and Boston, a

roster of private attorneys and firms serve the elderly through a publicly funded and staffed pro bono program. In Oregon, several area agencies on aging have made money available to legal aid programs to hire pro bono coordinators who match the needs of local elderly with volunteer attorneys. Volunteer attorneys work together with staff attorneys to expand service at senior centers in San Francisco and Chicago. In many localities, legal service attorneys refer elderly persons needing simple wills to a panel of private attorneys who will draft the document on a pro bono or low-fee basis. In some cities, law firms are matched with legal service for the elderly programs to facilitate an exchange of litigation skills and specialized knowlege.

The American Bar Association's Pro Bono Activation Project and its Young Lawyers Division are arranging for the funding and helping to develop a variety of programs to expand legal services to the needy elderly in such diverse locations as Duluth, Minnesota, Maricopa County (Phoenix), Arizona, and New Haven, Connecticut.

Corporations Also Help

In a very exciting development, the ABA's Commission on Legal Problems of the Elderly has recently received funds from several corporate foundations to initiate and coordinate the pro bono efforts of state and local bar association to render quality elderly legal service. The bar groups work in close

conjunction with the state Legal Services Developers, state and area agencies on aging and Legal Services Corporation offices. Examples of projects in Memphis, Arkansas, Nevada, Texas and New Mexico include direct free legal assistance to the elderly by volunteer lawyers, community legal education and Law Day programs at senior centers and the like, development of a handbook on legal rights and programs for the older citizen, and attorney visits to nursing home residents. But without the publicly-funded programs, it is very difficult to match pro bono contributions of services with needy clients and to stimulate additional contributions.

The Legal Services Corporation. Developing and expanding this type of imaginative, cooperative partnership depends on the continuing existence of an effective Legal Services Corporation, with its locally controlled field projects and its support resources. Recent figures show that older persons comprise from 10% to over 15% of the average caseload of LSC projects; and that more than $26 million in LSC funds are used to serve older persons. LSC attorneys have developed expertise in many areas of law affecting the elderly, such as SSI and Medicaid. As indicated above, this can be paired with private attorney experience in property, probate, estate matters, and consumer problems,as well as private attorney litigation skills. Invaluable training and back-up assistance are available through the LSC's National Senior Citizens Law Center, National Health Law Project,

and National Veterans Law Center. This assistance can benefit all attorneys and paralegals assisting older persons with their legal problems, and increase the quality and quantity of legal representation available to older Americans.

The American Bar Association has supported the Legal Services Corporation from its inception. Earlier this month, ABA president William Reece Smith, Jr., called together state and local bar leaders from throughout the nation to demonstrate their support for the Corporation's program, and stated:

> "In 1965, under the leadership of our then-president, now Justice, Lewis F. Powell, Jr., the American Bar Association and other bar leaders supported the creation of a federal legal services program. That program has made great strides toward meeting the legal needs of the poor. Corporation-funded local programs handled over 1.5 million cases a year -- helping these individuals resolve housing problems, consumer disputes, family law matters and other similar legal problems. Most of these problems tend to be simple routine legal issues but to many of these individuals they are of critical importance in their lives. This is all done at a cost of just over $10 per poor person...."

> "In addition, the voluntary efforts of the private bar have continued and increased. And these efforts together with those of the Corporation have for the first time brought this nation close to making a reality of the promise of equal justice for all our citizens. In this way, the Corporation has been a unique and remarkable example of government and the private sector working together to solve society's problems."

Older Americans Act legal services. Congress wisely built on the efforts of the Legal Services Corporation and its predecessors by providing for the specific development of legal services for the elderly through the Older Americans Act. This has enabled attorneys and paralegals to do the kind of substantial, regular outreach needed to surmount the transportation, mobility and communication problems peculiar to many elderly in order to avoid unnecessary institutionalization. It has led to a developing expertise in areas of law specifically affecting the aged, such as Social Security, Medicare, pensions, and age discrimination.

Moreover, about one quarter of all elderly are "near-poor," and live below 125 percent of the poverty level. Many of these elderly have incomes above Legal Service Corporation eligibility standards, yet cannot afford the customary fees charged by private attorneys. Title IIIB programs focused on those "in greatest social or economic need," and have begun to fill this service gap.

Many Title IIIB legal programs work closely with private bar programs. For example, in Sussex County, New Jersey, the Senior Legal Resource Center has initiated a referral component through which a panel of private attorneys give free one-half hour consultations and draft simple wills. In Missouri, the St. Louis Title III program joined with the Committee on Aging of the Young Lawyers Section of the Bar Association of Metropolitan St. Louis to produce an outstanding, easy-to-read, large

type Senior Citizens Handbook concerning laws and programs affecting senior citizens in the state. In Memphis, Tennessee, the Title III program and the Young Lawyers Secti n of the bar are developing a pro bono program through which private attorneys can volunteer their services to the aged. The Title III program in Hartford, Connecticut is providing training and assistance to attorneys in the General Counsel's office of the Aetna Life and Casualty Company who are giving regular pro bono assistance to senior citizens. Indeed, the Older Americans Act regulations state that Title III legal service providers (as well as area agencies, as provided in the law) must "attempt to involve the private bar." The ABA Commission on Legal Problems of the Elderly has sought to foster such effective private-public sector relationships throughout the country.

Older Americans Act Priority

In 1978, Congress designated legal services as one of three priority services under the Older Americans Act, specifying that at least 50% of Title IIIB funds must be spent on priority services, and that "some funds" must be spent on each priority service. This federal directive is a minimal one. It leaves both the nature and level of services to the discretion of the area agency on aging, thus encouraging variety and creativity in funding and programming. In FY-80, about 6% of Title IIIB social services funds at the local level went for legal services. This enabled thousands of older persons to receive legal assistance from approximately

500 specialized legal service projects for the elderly throughout the country. Most of this assistance consists of legal representation and advice to individuals.

In enacting the priority, Congress recognized that area agencies on aging often may have perceived legal services as less important to the elderly than food, shelter, medicine or transportation, which are more immediately visible. Yet legal services are often essential to make food, shelter, medicine, and transportation available. This Congressional recognition has been effective. In the last three years, the number of older Americans who receive legal services has doubled and is continuing to grow. Yet much remains to be done, as many needy elderly - particularly in small towns and rural areas - still remain without adequate legal representation. The regulations for the Older Americans Act have been in effect only since March 31, 1980. As of the summer of 1980, half of the area agencies still did not have a legal services provider -- although many were planning to contract with one by the end of FY-81, and 65% report that the need for legal services is "relatively important" or "among the most important" of elderly needs. (Statistics from CRC Education and Human Development, Inc., Technical Report Evaluating Title III Legal Services, March 1981).

All of this indicates that the statutory priority has been a crucial catalyst in increasing legal resources for

older Americans. Without the priority, it is likely that many areas may terminate or substantially cut back their elderly legal services projects. This, especially if, coupled with the loss of or severe cutbacks in LSC programs, would leave older Americans substantially without legal services -- and without an opportunity to obtain equal justice under our legal system.

The ABA thus urges Congress to continue some form of federal directive which would recognize the significance of legal services, and cause area agencies on aging to closely examine local legal needs and ways to meet them. In the House of Representatives, Congressman Ike Andrews on April 7, 1981, introduced a bill, H.R. 3046, the "Older Americans Act Amendments of 1981." The Commission is pleased to note that H.R. 3046 recognizes both the need for legal assistance as one of three priority services and that "an adequate proportion" of area agency funds be committed to this critical area. This language provides guidance by the Congress, yet offers local control and flexibility as well. Congress should also encourage the continuation of the national and regional Advocacy Assistance Support Centers to provide valuable training and technical assistance to the public and private bar.

In conclusion, legal services enable older needy Americans to secure fundamental rights to which they are entitled.

Legal services open doors for the needy elderly to other services. Legal services enhance the independence and dignity of needy older individuals. The ABA maintains that the most effective approach for providing adequate legal representation and advice for needy older persons is through the combined efforts of a continuing Legal Services Corporation, an effective Older Americans Act program, and the private bar.

We strongly urge you to reauthorize the Older Americans Act and to continue to place a priority on the delivery of legal services to the needy elderly.

On behalf of the Association, I thank the Chairman and the Committee for permitting us to present these views.

ITEM 12. LETTER FROM ROGER H. NEWTON, DIRECTOR, LEGAL SERVICES FOR THE ELDERLY, INC., AUGUSTA, MAINE, TO SENATOR WILLIAM S. COHEN, DATED MARCH 27, 1981

Dear Senator Cohen:

Legal Services for the Elderly, Inc. is a relatively small operation in the State of Maine and is funded mostly under the Older Americans Act, channelled through our local Area Agencies. I was not entirely convinced of the desirability of this at the time I was asked to be a Director. My objective at that time was to assure that Federal funds were being properly spent. However, the experience of the past several years has convinced me that LSE is a desirable and necessary activity. On a budget of less than $130,000 a year we have maintained a small staff of four attorneys and serviced about 1500 cases a year. Few of these have resulted in court action most, in fact, have been advice and assistance in connection with complying with Regulations imposed by the government agencies such as: Social Security, Medicare, Medicade, Veterans Administration, Internal Revenue, etc. as these apply to the elderly. The complexity of these rules, both State and Federal, is baffling to many of our older people I am convinced that this effort is needed and is cost effective. Since most of this litigation is a result of government regulations, I feel that the responsibility for correction is properly a government expense.

I should point out that due to limited available funds, we must limit our services to the most needy cases, although there is no mandatory limitation of income. We have excellent relations with the private Bar and they have assumed a portion of the load. However, the availability of our attorneys has filled a real need of the elderly, especially those of limited means.

We have discussed and investigated the possibility of financing LSE through private charitable contributions, and it does not appear that money is available from this source. Philanthropy does not appear to extend to the needy elderly.

The provisions of the Older Americans Act are a Godsend to the elderly on fixed or limited income. Our funds are administered (quite properly, I think) by the State agencies, however the source is Federal funds. I do not believe the burden of this funding should be placed on the State of Maine. Furthermore, the current Maine budget is so constrained that unless Federal funds continue to be available, I doubt that LSE can continue.

I urge you to use your effort to continue legal services for the elderly,

Very truly yours.

Roger H. Newton

Director, Legal Services for the Elderly